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Federal Register

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0164; Directorate Identifier 2013–NE–10–AD; Amendment 39–17513; AD 2013–14–08]

RIN 2120–AA64

Airworthiness Directives; Austro Engine GmbH Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all Austro Engine GmbH model E4 engines. This AD requires removing from service certain part number waste gate controllers. This AD was prompted by several reports of power loss events due to fracture of the waste gate controller lever. We are issuing this AD to prevent engine power loss or in-flight shutdown, which could result in loss of control and damage to the airplane.

DATES: This AD becomes effective August 21, 2013.

ADDRESSES: For service information identified in this AD, contact Austro Engine GmbH, Rudolf-Diesel-Strasse 11, A–2700 Weiner Neustadt, Austria, phone: +43 2622 23000; fax: +43 2622 23000–2711, and Web site: *www.austroengine.at.* You may view this service information at the FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7125.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Frederick Zink, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7779; fax: 781–238–7199; email: *frederick.zink@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. The NPRM was published in the **Federal Register** on March 28, 2013 (78 FR 18920). The NPRM proposed to correct an unsafe condition for the specified products. The European Aviation Safety Agency (EASA) issued EASA AD No. 2013–0025, dated February 6, 2013. This MCAI states:

> Several power loss events have been reported on Austro E4 engines, due to fracture of the waste gate controller lever. This condition, if not corrected, could lead to further cases of power loss events, possibly resulting in forced landing, damage to the aeroplane and injury to occupants.

You may obtain further information by examining the MCAI in the AD docket.

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM (78 FR 18920, March 28, 2013).

Conclusion

We reviewed the available data and determined that air safety and the public interest require adopting this AD as proposed (78 FR 18920, March 28, 2013).

Costs of Compliance

We estimate that this AD affects about 64 engines installed on airplanes of U.S. registry. We also estimate that it will take about 0.5 hours per engine to comply with this AD. The average labor rate is $85 per hour. Parts cost about $231. Based on these figures, we estimate the cost of the AD on U.S. operators to be $17,504.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. ''Subtitle VII: Aviation Programs,'' describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in ''Subtitle VII, Part A, Subpart III, Section 44701: General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this AD:

(1) Is not a ''significant regulatory action'' under Executive Order 12866,

(2) Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),

(3) Will not affect intrastate aviation in Alaska to the extent that it justifies making a regulatory distinction, and

(4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD and placed it in the AD docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new AD:

2013–14–08 Austro Engine GmbH (Formerly Diamond Aircraft Industries GmbH): Amendment 39–17513; Docket No. FAA–2013–0164; Directorate Identifier 2013–NE–10–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective August 21, 2013.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Austro Engine GmbH model E4 engines, with a waste gate controller, part number (P/N) E4A–41–120–000 Rev. 050, or lower revision, or a waste gate controller, P/N E4B–41–120–000 Rev. 000, installed.

(d) Reason

This AD was prompted by several reports of power loss events due to fracture of the waste gate controller lever. We are issuing this AD to prevent engine power loss or in-flight shutdown, which could result in loss of control and damage to the airplane.

(e) Actions and Compliance

(1) Unless already done, during the next engine maintenance, or within 110 flight hours, or within three months after the effective date of this AD, whichever occurs first, do the following.

(2) Remove from service waste gate controllers, P/N E4A–41–120–000 Rev. 050, or lower revision, and waste gate controllers, P/N E4B–41–120–000 Rev. 000.

(f) Installation Prohibition

After the effective date of this AD, do not install any waste gate controller, P/N E4A–41–120–000 Rev. 050, or lower revision, or waste gate controller, P/N E4B–41–120–000 Rev. 000, onto any engine.

(g) Alternative Methods of Compliance (AMOCs)

The Manager, Engine Certification Office, may approve AMOCs for this AD. Use the procedures found in 14 CFR 39.19 to make your request.

(h) Related Information

(1) For more information about this AD, contact Frederick Zink, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7779; fax: 781–238–7199; email: *frederick.zink@faa.gov*.

(2) Refer to European Aviation Safety Agency AD 2013–0025, dated February 6, 2013, for related information. You may examine the AD docket on the Internet at *http://www.regulations.gov*.

(3) Austro Engine GmbH Mandatory Service Bulletin No. MSB–E4–007/4, Revision 4, dated April 24, 2013, which is not incorporated by reference in this AD, can be obtained from Austro Engine GmbH, using the contact information in paragraph (h)(4) of this AD.

(4) For service information identified in this AD, contact Austro Engine GmbH, Rudolf-Diesel-Strasse 11, A–2700 Weiner Neustadt, Austria, phone: +43 2622 23000; fax: +43 2622 23000–2711, and Web site: *www.austroengine.at*.

(5) You may view this service information at the FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7125.

(i) Material Incorporated by Reference

None.

Issued in Burlington, Massachusetts, on July 10, 2013.

Colleen M. D'Alessandro,

Assistant Manager, Engine & Propeller Directorate, Aircraft Certification Service.

[FR Doc. 2013–16951 Filed 7–16–13; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

19 CFR Part 351

RIN 0625–AA66

[Docket No.: 0612243022–3538–03]

Certification of Factual Information To Import Administration During Antidumping and Countervailing Duty Proceedings

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Final rule.

SUMMARY: The Department of Commerce (''the Department'') is amending the regulation which governs the certification of factual information submitted to the Department by a person or his or her representative during antidumping (''AD'') and countervailing duty (''CVD'') proceedings. The amended regulation is intended to strengthen the current certification requirements. For example, the amendment revises the certification in order to identify to which document the certification applies, to identify to which segment of an AD/CVD proceeding the certification applies, to identify who is making the certification, and to indicate the date on which the certification was made. In addition, the amendments are intended to ensure that parties and their counsel are aware of potential consequences for false certifications.

DATES: This Final Rule is effective August 16, 2013. This rule will apply to all investigations initiated on the basis of petitions filed on or after August 16, 2013, and other segments of AD/CVD proceedings initiated on or after August 16, 2013.

FOR FURTHER INFORMATION CONTACT: Rebecca Cantu, Attorney, Office of Chief Counsel for Import Administration, Office of the General Counsel, or Myrna Lobo, International Trade Compliance Analyst, Office 6, Import Administration, U.S. Department of Commerce, 1401 Constitution Ave. NW., Washington, DC 20230, 202–482–4618 or 202–482–2371, respectively.

SUPPLEMENTARY INFORMATION:

Background

Section 782(b) of the Tariff Act of 1930, as amended (''the Act''), requires that any person providing factual information to the Department during an AD/CVD proceeding must certify the accuracy and completeness of such information. *See* 19 U.S.C. 1677m(b). Department regulations set forth the specific content requirements for such certifications. *See* 19 CFR 351.303(g) (2003). The Department recognized that the certification requirements and the language of the certification did not address certain important issues. For example, the certification language did not require the certifying official to specify the document or the proceeding for which the certification was submitted, or even the date on which the certification was signed.

Therefore, on January 26, 2004, the Department published a notice of inquiry in the **Federal Register**, requesting comments regarding whether the certification requirements in place were sufficient to protect the integrity of Import Administration's (''IA'') administrative processes and, if not, whether the current certification statements should be amended or strengthened and, if so, how. *See Certification and Submission of False Statements to Import Administration During Antidumping and Countervailing Duty Proceedings,* 69 FR

3562 (January 26, 2004) (''*Notice of Inquiry*'').

Based on the comments received in response to the *Notice of Inquiry,* the Department published a notice in the **Federal Register**, proposing to amend the regulation governing the certification of factual information submitted to the Department. *See Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings-Notice of Proposed Rulemaking and Request for Comment,* 69 FR 56738 (September 22, 2004) (''*Notice of Proposed Rulemaking*''). In that notice, the Department proposed specific boilerplate language for the certifications and requested comments on the proposed amendment. The Department received 16 submissions in response to the *Notice of Proposed Rulemaking* through December 7, 2004. The submissions included a wide variety of positions. Some commenters were opposed to the amendments, others supported the amendments, and many provided general recommendations for amending the certification requirements, as well as comments suggesting specific changes in the text of the certifications.

On February 10, 2011, the Department published the interim final rule implementing changes to the certifications, addressing all of the prior comments, and providing parties another opportunity to comment. *See Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings: Interim Final Rule,* 76 FR 7491 (February 10, 2011) (''*Interim Rule*''). The Department decided to address all prior comments and implement the changes through an interim final rule because it had been several years since comments were last received on the proposed changes to the certification requirements and to afford parties an additional opportunity to comment on these regulations.

The Department provided an opportunity for parties to file comments and rebuttal comments on the *Interim Rule. See Interim Rule,* 76 FR at 7491. Because some parties encountered technical difficulties in filing comments electronically during the rebuttal comment period, the Department reopened the public comment period for the submission of rebuttal comments. *See Interim Final Rule on Certification of Factual Information To Import Administration During Antidumping and Countervailing Duty Proceedings: Reopening of Rebuttal Comment Period,* 76 FR 39770 (July 7, 2011).

In total, the Department received 13 submissions of affirmative and rebuttal comments on the *Interim Rule.* Some of the comments discussed the appropriateness of requiring foreign governments and their officials to submit certifications as required by the *Interim Rule.* In order to analyze fully and address these comments and to obtain public views on this aspect of the *Interim Rule,* the Department published a supplement to the *Interim Rule.* This supplemental interim final rule sought public comment, and at the same time also allowed foreign governments the option to submit certifications in the format that was in use prior to the *Interim Rule* or in the format provided in the *Interim Rule,* until such time as a final rule is published. *See Certification of Factual Information To Import Administration During Antidumping and Countervailing Duty Proceedings: Supplemental Interim Final Rule,* 76 FR 54697 (September 2, 2011) (''*Supplemental Rule*''). The Department received four submissions in response to the *Supplemental Rule.* All comments responding to the *Interim Rule* and the *Supplemental Rule* received within the deadlines are available for review at Import Administration's Central Records Unit (Room 7046 of the Herbert C. Hoover Building), and the Federal eRulemaking Portal at *www.Regulations.gov,* search Docket ITA–2010–0007.

Below, the Department provides a summary, organized by subject, of all of the timely submitted comments on the *Interim Rule* and the *Supplemental Rule,* and the Department's responses. After analyzing and carefully considering all comments, as well as questions and issues raised by parties to AD and CVD proceedings since the *Interim Rule* became effective, the Department is further refining the rule and the certification language as discussed and set forth below.

Analysis of Comments

1. Dating of the Certification

The certification format provided in the *Interim Rule* and the *Supplemental Rule* requires the certifier to identify the specific submission to which the certification pertains by title and date. *See Interim Rule,* Comment 4.

One commenter argued that the Department should amend the certification language to eliminate the date of the specific submission, since frequently certifications will need to be signed before the specific date on which the filing will take place is known.

Response: The Department is continuing to require that the certifications be dated; however, the Department is making some modification to the date required in the text of the certification to address the issues raised by the commenter regarding the difficulties encountered in completing the certification. The Department is providing some flexibility by allowing submissions to be identified in the certification by either the filing date or the due date. We find that requiring a date as an identifier distinguishes among the numerous submissions filed by a party that are similar in nature, such as supplemental questionnaire responses. Similarly, requiring a date as an identifier makes clear that documents which are filed in parts or in separate volumes, but respond to the same questionnaire, are part of the same submission. We also find that eliminating the date of the submission in the text of the certification would undermine our efforts to strengthen the regulation because it could permit a ''blank check'' certification that could simply be copied and attached to each supplemental questionnaire response. Requiring a date ensures that the signer is aware of the specific submission that he or she is certifying and for which he or she is responsible, while also providing a strong link between the certification and its submission. However, we recognize that submissions may be completed in advance of the filing date of the submission and, as a result, certifications could be obtained in advance and that the precise date on which the filing will take place may not be known at the time the certification is signed or could subsequently change for unanticipated reasons. For this reason, the Department will allow the identifier date to be either the due date of the submission or the actual date the submission is filed. Accordingly, we have modified the text of the company and government certifications to read as set out in the regulatory text of this rule.

2. Specification of Enforcement Procedures and Specification of Sanctions

In the *Interim Rule* the Department did not specify the enforcement procedures that would be available in the event of a possible violation of 18 U.S.C. 1001, although some commenters had proposed that the Department do so. These proposals included suggestions such as establishing and specifying the procedures for conferring with the Department's Office of Inspector General and law enforcement agencies; formulating guidelines that permit the Department to maintain records to be used in any investigation

of misconduct; and drafting regulations for the investigation of factual information found to be false, inaccurate or incomplete, similar to those outlined for violations of administrative protective orders. The Department concluded in the *Interim Rule* that such procedures were not necessary because certification violations would continue to be referred to the appropriate offices, such as the Office of Inspector General, and that those offices would employ their normal procedures for handling possible violations of 18 U.S.C. 1001. *See Interim Rule,* Comment 6. The Department also declined to adopt specific sanctions because it does not have the authority or resources to create independent sanctions for false certifications and because sanctions will be determined by the offices to which the Department refers alleged certification violations under 18 U.S.C. 1001. *See Interim Rule,* Comment 7. Nevertheless, the Department reserved the right to protect its administrative process through appropriate steps in the event that a party is found to have violated 18 U.S.C. 1001, and also reserved the right to refer matters to bar associations when it determined that the circumstances warrant such a referral. *Id.*

One commenter noted that by themselves, the changes to the language of the certifications will not be sufficient to deter some parties and their representatives from certifying factual submissions that they know or should know to be false. Accordingly, additional steps should be taken to ensure that those requirements are actually enforced and that any misconduct is reported to the appropriate government authorities. Furthermore, the commenter suggested that certification violations be referred to the appropriate bar association and contends that such referrals would be consistent with the Department's current practice under 19 CFR 354.18, which provides that the Department will refer an administrative protective order (APO) violation to the ethics panel or other disciplinary body of the appropriate bar or other professional associations if sanctions are imposed by the Department for the APO violation. The commenter takes issue with the Department's decision in the *Interim Rule* not to undertake this practice because it would result in excessive expenditures of Department resources. *See Interim Rule,* Comment 7. According to the commenter, the relevant bar association would use its own resources to investigate allegations of wrongdoing. Moreover, such referrals are consistent with the Department's decision in the *Interim Rule* that it would refer violations to other offices better equipped to handle such matters, and would prevent leaving violations of the certification requirement unsanctioned because the Department's Office of Inspector General or federal prosecutors are unwilling to pursue enforcement. As such, the commenter argues the certification should contain a statement that the representative is aware that any misconduct involving false certifications may be referred to the bar association. Finally, the commenter suggested that the Department consider prohibiting any representative found in violation of the certification requirements from appearing before the agency, consistent with the Department's regulation for APO violations under 19 CFR 354.3(a)(1). Another commenter agreed with these suggestions and urged the Department to outline the enforcement procedures.

Other commenters state that the *Interim Rule* does not elaborate on the enforcement procedures the Department intends to follow in the event that it identifies misconduct, the factors that it will consider, or the standards that it will apply in determining whether a matter should be referred to the Department's Office of Inspector General or to the U.S. Department of Justice. These commenters also state that it is not apparent whether the Department's Office of Inspector General or the U.S. Department of Justice would require that a signatory make any particular inquiry as a basis for signing a certification.

A different commenter provided its own published article that proposes licensing requirements for those practicing before Import Administration and the International Trade Commission (ITC). The proposed licensing requirement would provide the agencies with the ability to monitor and police the ethical behavior of the practitioners who appear before them, both attorneys and non-attorneys. The article recommends a new regulatory structure in the form of an agency-developed and agency-administered licensing system applicable to those who practice before the agencies (attorneys and non-attorneys alike) to ensure ethical behavior. It further argues that representing clients before the U.S. trade agencies is engaging in the practice of law and addresses the inapplicability of the government agency exception to the unauthorized practice of law rule. Finally, the article submitted by this commenter recommends that the agencies promulgate appropriate regulations in the form of a licensing system, which would bring the agencies within the government agency exception.

One commenter rejects this licensing proposal, stating that it is beyond the scope of the new certification requirements, and noting that the Department has already rejected the establishment of such enforcement procedures.

Response: As explained in the *Interim Rule,* the amended certifications serve to clarify and strengthen already existing obligations regarding the submission of information to the Department. The consequences of false certifications were also addressed in the *Interim Rule,* which explained that such violations would be referred to the appropriate authorities who are better equipped to handle such matters. Therefore, we do not think it is necessary to provide comprehensive enforcement procedures or to elaborate on the factors that the Department will consider in determining whether a matter should be referred to the Department's Office of Inspector General or the U.S. Department of Justice. Further, the Department will, on a case-by-case basis, evaluate instances of possible material false statements or information as circumstances may differ from one case to another. *See Administrative Review of Certain Frozen Warmwater Shrimp From the People's Republic of China: Final Results, Partial Rescission of Sixth Antidumping Duty Administrative Review and Determination Not To Revoke in Part,* 77 FR 53856 (September 4, 2012), and accompanying IDM at Comment 3 (stating that the Department would consider the circumstances of the case and whether it was appropriate to refer the matter to the Office of Inspector General). We also are not addressing here the bases for which the Department's Office of Inspector General or the U.S. Department of Justice will handle such violations, as these authorities will follow their own procedures.

With regard to referring matters to bar associations, although the *Interim Rule* indicated that it was not the Department's general practice to become involved in proceedings before bar associations regarding allegations of attorney misconduct, the Department reserved the right to refer such matters to bar associations. We will therefore consider on a case-by-case basis whether to refer allegations of attorney misconduct if it is determined that the circumstances warrant such a referral. Additionally, since the issuance of the *Interim Rule,* the Department has also

separately issued a final rule to strengthen its regulations with respect to the accountability of attorneys and non-attorney representatives. *See Regulation Strengthening Accountability of Attorneys and Non-Attorney Representatives Appearing Before the Department* (78 FR 22773, April 17, 2013) (*Attorneys/Representatives Accountability Regulation*). That final rule implemented a provision at 19 CFR 351.313 that deals more specifically with attorney and non-attorney representative misconduct, sets a good cause standard, and addresses possible sanctions, including reprimand, suspension, or disbarment of the representative from practice before the agency. Thus, the Department will take necessary steps as provided under that regulation.

We have not considered the proposal of an agency-administered licensing system within the context of this rulemaking because the purpose of amending 19 CFR 351.303(g) is to clarify and strengthen already existing obligations. Additionally, the Department has previously recognized that although some agencies require certain non-attorney practitioners to enroll before them (for instance, ATF), trade remedies is not a regulated industry warranting such enrollment. *See Attorneys/Representatives Accountability Regulation,* 78 FR at 22777. As such, we have determined that the development of a new licensing system is outside the scope of this rulemaking.

3. Requirement To Retain Signed Original Certifications

The certification language provided in the *Interim Rule* and in the certification itself requires the signer to file a copy of the signed certification with the relevant submission to the Department and retain the original for a five-year period commencing with the filing of the submission. *See Interim Rule,* Comments 8 and 14.

One commenter stated that the requirement to maintain the original certification for a five-year period creates an unnecessary record-keeping burden and is impractical with respect to attorneys who do not work in a firm's Washington, DC office. Two commenters supported the use of an electronic signature, thereby allowing an electronically signed certification to serve as original certification. The use of verifiable electronic signatures would alleviate concerns about record-keeping; would facilitate the Department's move toward electronic documentation; and would ensure and preserve the integrity of documents, thereby reducing the burden on companies and law firms. Furthermore, under the Electronic Signatures in Global and National Commerce Act (''ESign Act''), Public Law 106–229, 114 Stat. 464 (2000) (codified at 15 U.S.C. 7001 *et seq.*), electronic records satisfy regulations or rules which require ''original'' documents. Thus, the Department should either allow electronically signed records or clarify that pursuant to the ESign Act, electronic records satisfy the proposed recordkeeping requirement of 19 CFR 351.303(g). According to these commenters, deeming electronically signed certifications to be original certifications would conform to current and evolving practice before federal courts and agencies.

Another commenter noted that in order to account for the potential that litigation could exceed the five-year retention period, the Department's final rule should clarify that original certifications be retained for five years or until the entry of a final judgment in all appeals concerning that proceeding, whichever is greater.

Another commenter responded that the Department should explain that this requirement does not detract from a company's authority to instruct its attorney that he or she should retain the certifications of the company, in the context of his or her representation of the company. This would clarify that it is not intended to constrain the scope of the representation activities that are agreed upon between the attorney and his or her client.

Response: We have fully considered the feasibility of accepting electronic signatures and we are unable to do so for certification purposes at this time. Although the Department moved to an electronic system, the Import Administration Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS), for the filing of submissions as of August 5, 2011, this system is being implemented in phases and cannot currently handle electronic signatures for certification purposes. The only form of electronic signature currently compatible with IA ACCESS is the use of the filer's unique username and password combination as the filer's signature. While the unique username and passwords assigned to each IA ACCESS user allow for the filer of a submission to electronically sign the submission, the filer may only electronically sign the documents contained therein that would otherwise bear his or her own hand-written signature. In other words, the representative's electronic signature would not extend to the company/government official's certification that is included in the submission because the company/government official would not also be using his or her own unique IA ACCESS username and password.

Second, we considered whether companies or government officials, otherwise represented by an attorney or non-attorney representative, could file their certification via IA ACCESS separately from the submission they would be certifying, but we have concluded that this option is unfeasible because it could lead to difficulties in tracking and linking certifications to submissions and also in ensuring the timely receipt of these certifications. We also considered the use of third-party service providers that authenticate signatures, which would allow the representative and his or her company/government client to sign their respective certifications electronically. However, because the Department has not fully implemented IA ACCESS, it is unable to determine at this time which third-party services that authenticate signatures will be compatible with its system.

For all these reasons, the Department has decided that at this time, it cannot accept electronic signatures for certification purposes from any party and the Department will continue to require a handwritten signature on certifications and the retention by the certifier of the signed original certifications. We will evaluate the feasibility of electronic signatures as we implement future phases of IA ACCESS. The proper format and procedures for the submission of electronic documents are defined in the IA ACCESS Handbook on Electronic Filing Procedures (IA ACCESS Handbook). Therefore, should electronic signatures become a viable option, the Department will announce these changes on the IA ACCESS Web site at *http://iaaccess.trade.gov*, and in the IA ACCESS Handbook. Until changes are announced in the IA ACCESS Handbook, the Department will continue to require a handwritten signature on certifications and the retention by the certifier of the signed original certifications. *See also* Comment 18 below (further discussing electronic signatures).

With regard to record-keeping requirements, the *Interim Rule* requires the original certification to be retained for a period of five years from the date of filing a submission. We have not modified that requirement to facilitate prosecution pursuant to 18 U.S.C. 1001 in the event that a party makes a

material false statement during the course of the proceeding. However, we have moved the language regarding retention from the text of the certification to the text of the regulation itself in order to make the record-keeping requirements explicit and to make the placement of this requirement more consistent with the placement of other procedural requirements in this rule (*i.e.,* in the text of the regulation rather than the text of the certification). *See also* Comment 12b, *infra.* Further, we do not find it necessary to extend the record-keeping requirement beyond five years or until final judgment in cases of litigation because the statute of limitations to prosecute under 18 U.S.C. 1001 expires at the end of five years and the original certifications could be gathered and maintained by the U.S. Government during the course of any litigation for which the original certifications are necessary.

Original certifications must be maintained so that they can be physically examined, if requested, at verification and so that they can be obtained from the certifier because, for example, the Department is contemplating referring a possible certification violation to the Department's Office of Inspector General or the U.S. Department of Justice. As noted earlier, the Department will continue to consider the possibility of permitting electronic signatures and, should the acceptance of electronic signatures for certification purposes become feasible at a later date, maintenance of the original signed document may become redundant, and the Department may remove this record-keeping requirement at that time.

In the *Interim Rule,* the Department requested that companies and governments, rather than legal counsel, maintain their own original certifications so as to avoid implicating attorney-client privilege. *See Interim Rule* at Comment 8. The Department has reconsidered the issue of who should maintain the original certification, and now clarifies that the record-keeping requirement only requires that a company or government, and its representative, retain the original certification for a five-year period following the filing of the submission. This requirement does not specify where, or the manner in which, the original certification should be maintained, nor does it prohibit a company or government from authorizing its representative to maintain the original certifications on behalf of its client. To make this requirement clearer, we have revised the language in the regulation, replacing the word ''retain'' with ''maintain.'' The company or government, and its representative, can develop their own policies and practices for maintaining the original certification. Notwithstanding the policy or practice selected by the company or government, the company or government must make the original available upon request by the Department at verification or, at any other time, upon request by the Department or any other appropriate agency, such as the Department's Office of Inspector General or the U.S. Department of Justice. However, it should be noted that the certifier is the person ultimately responsible for his/her own certification and must produce the certification upon the Department's request, regardless of the arrangements made to maintain the original certification.

4. Requirements To List on Certifications Other Individuals With Significant Responsibility for Preparation of Part or All of the Submission

In the *Interim Rule* the Department did not adopt the proposal to include within the certification a list of all individuals with significant responsibility for preparing part or all of the submission. *See Interim Rule,* Comment 10.

One commenter stated that including in the certification the identification of the individuals who had significant responsibility for compiling and submitting factual information or manipulating data would help to ensure that the submission does not omit important facts known or reasonably available to the party making the submission. This will ensure that the obligations of accuracy and completeness are taken seriously, and will be a useful check during any verification of the information. Furthermore, the mere listing of significant contributors is not likely to detract from the obligation held by the person who actually signs the certification.

Two other commenters recommended that the Department eliminate ambiguity by requiring all organizations and individuals that were involved in the preparation and submission of factual information to file their own certification in order to hold those organizations and individuals accountable. As an example, this would include outside accounting or consulting firms that assisted a company or government in the preparation of a submission. This would prevent parties that are submitting inaccurate or incomplete information in their submissions from claiming that certifications listing only the company/government official were not misleading because they had relied on an outside party. One commenter added that this would give the certification process more transparency and increase the likelihood of ethical behavior and due diligence. The other commenter claims that this requirement would not be burdensome and would eliminate ambiguity.

One of these commenters believes that the Department erred in not adopting a requirement that the certification list all individuals with ''significant responsibility'' for preparing part or all of the submission in the *Interim Rule* and recommends that the Department adopt this requirement. According to the commenter, the Department vastly over-estimated the number of people who ''significantly'' contribute to a submission, which on most occasions, is probably an additional two or three people who actually contribute in a significant way. The other commenter also suggests requiring a certifying official to identify any outside parties who participated in the preparation or submission of factual information. Failure to enact this requirement would prevent the Department from holding fraudulent parties accountable, while requiring the identification of all parties involved in the preparation of a submission would ensure that they take greater care and act more ethically. This party claims that while the term ''significant responsibility'' is not clearly defined, the vagueness of the definition is more than outweighed by the value of a transparent process.

One commenter agreed with the Department that the requirement to identify and list all persons with significant responsibility for compiling and submitting information in a submission is overly burdensome and unnecessary. The commenter argues that one company official should be held responsible for the information contained in the submission, and that this individual, along with the attorneys responsible for submitting the information, should be required to sign the certification. While the Department is correct to demand that an individual or individuals be designated as assuming responsibility for the accuracy of each submission, the commenter argues that it should be up to the company or government to make the determination as to which individual or individuals should assume that responsibility.

Response: The Department provided its reasoning in the *Interim Rule* for not adopting a requirement that the

certification list all individuals with significant responsibility for preparing part or all of the submission. *See Interim Rule* at Comment 10. Among the reasons are the ambiguity created regarding who is primarily responsible for the accuracy and completeness of the entire submission, the attendant requirement to define what constitutes ''significant responsibility'' and ''part . . . of a submission,'' *e.g.,* one piece of information, two pieces of data, and the additional administrative burden that would be created by such a requirement. Moreover, the mere listing of significant contributors without their signatures on the certification does not enhance the objective of the certification requirement, *i.e.,* to ensure that the factual information contained in the submission is complete and accurate and that the person whose signature appears on the certification can be held responsible by the Department for the completeness and accuracy of the information in the submission. In addition, multiple company/government certifications or a list of all the persons responsible for preparing the submission would likely diminish accountability. It could be difficult to hold a person(s) responsible in the event that a material false statement had been made in the submission because that person could argue that any inaccuracies or incompleteness were attributable to another person listed on the certification or another person who also certified. *See also Interim Rule,* Comment 9.

Further, the Department does not agree that it is appropriate to adopt a requirement that all organizations or outside accounting or consulting firms assisting a company or government in the preparation of a submission provide a certification. The parties to the proceeding before the Department are the parties that are accountable and responsible for the information submitted to the Department.

5. Requirement To Identify on the Certification Legal Counsel or Representatives That Supervised the Advising, Preparing, or Review of the Submission or Other Individuals With Significant Responsibility for Advising, Preparing, or Reviewing the Submission

In the *Interim Rule,* the Department decided not to require representatives to list within the certification the other individuals with significant responsibility for advising, preparing, or reviewing part or all of the submission. *See Interim Rule,* Comment 15.

One commenter argued that the Department should require all legal counsel involved in the preparation of factual information to file a certification. This would allow the Department to understand precisely who was involved in the preparation of the submission, and to act accordingly. Alternatively, the Department should require that legal counsel's certification identify all law firms or other representatives involved in the preparation of the submission. This would address the frequent use of foreign as well as U.S. attorneys in the preparation and submission of information, as well as instances involving multiple U.S. counsel in the preparation of submissions for parties.

Another commenter agreed with this approach because it recognizes that complex submissions required by the Department require input from many sources. The commenter notes that a potential alternative to the Department's requirement is to adopt the ITC's practice of requiring a single certification that also allows for the identification of additional ''contact persons'' for different sections of the submission.

Response: For the same reasons stated in Comment 4, *supra,* the Department is not adopting the proposal to require representatives to list within the certification the other individuals with significant responsibility for advising, preparing, or reviewing part or all of the submission. For a certification to be effective there must be a primary representative to hold accountable for the accuracy and completeness of the overall submission so certified. It is important that the information, *as a whole,* be evaluated by the representative for accuracy and completeness. Further, if there were several representatives certifying the same submission, it could be difficult for the Department to hold any one person responsible for the submission because that person could seek to attribute any inaccuracy or incompleteness to another certifier. Thus, we find that any benefits gained by knowing which particular portions of a submission were prepared or supervised by particular representative are outweighed by the loss of accountability for the submission as a whole if the Department were to permit multiple certifications in the usual circumstance.

The Department recognizes that there are exceptional cases in which it will be necessary for more than one representative to certify a submission,[1] such as submissions that are filed jointly by multiple law firms or representatives, on behalf of multiple interested parties. In such instances, the Department expects the representatives to work together to ensure the accuracy and completeness of the entire submission, rather than providing a certification that applies only to a specified portion of the submission.[2] Further, in instances where a ''lead'' interested party has been designated to certify on behalf of multiple interested parties,[3] the Department will also consider the certification of the representative of the ''lead'' interested party and the representative of the party whose specific information is contained in the submission, to be sufficient for purposes of the representative certification.

6. Whether Representative Certifications Are ''Continuing in Effect''

In the *Interim Rule,* the Department did not adopt the proposal requiring the signer to certify that he or she is aware that the certification is deemed to be continuing in effect, such that the signer must notify the Department in writing, if at any point during the segment of the proceeding he or she possesses knowledge or has reason to know of any material misrepresentation or omission of fact in the submission or in any previously certified information upon which the submission relied. *See Interim Rule* Comment 16; *see also Interim Rule* Comment 12.

One commenter stated that the Department should amend its proposal to require the representative of a party to certify that he or she is aware that the certification is deemed to be continuing in effect. The signer of the certification should also be required to take appropriate remedial measures if at any point during the segment of the proceeding he or she possesses knowledge or has reason to know of any material misrepresentation or omission of fact in a previously certified submission. Although the Department has already noted that the obligation to report material misrepresentations or omissions of fact already exists, this commenter believes that the certification itself should include language that warns counsel to abide by this obligation.

Response: The obligation to report material misrepresentations or omissions of fact already exists, as explained in the *Interim Rule. See*

[1] In exceptional cases the *Interim Rule* permitted a very limited number of individuals to be responsible for the accuracy and completeness of the entire submission. *See Interim Rule,* Comment 15, footnote 4.

[2] *Id.*

[3] *See* Comment 21 *infra,* allowing a ''lead'' interested party to certify on behalf of multiple interested parties when the submission does not contain factual information that belongs to any particular interested party.

Interim Rule, Comment 12. This requirement is implicit in the certification requirement found in section 782(b) of the Act and in the verification requirements found in section 782(i) of the Act. 19 U.S.C. 1677m(b) & (i); *see also* 19 CFR 351.307(b). Additionally, the Department noted that this obligation should be interpreted in a manner consistent with a representative's professional responsibilities. *See Interim Rule,* Comment 16 (discussing the DC Rules of Prof'l Conduct, R. 4.1 prohibiting an attorney from knowingly making false statements to a third person in the course of representing a client; DC Rules of Prof'l Conduct, R. 3.3 prohibiting an attorney from offering evidence to a tribunal that the attorney knows is false); *see also Attorneys/Representatives Accountability Regulation* discussed earlier in Comment 2, *supra.* As such, we do not think it is necessary for the certification itself to include additional language to remind counsel of this obligation.

7. Requirement To Make ''An Inquiry Reasonable Under the Circumstances''

In the *Interim Rule* the Department did not adopt the proposal requiring representatives to make an inquiry reasonable under the circumstances before certifying that the submission is accurate and complete. *See Interim Rule,* Comment 17.

One commenter argued that the regulation should be amended to require that company officials and attorneys conduct ''an inquiry reasonable under the circumstances.'' For attorneys signing certifications, this would include the due diligence required by the rules of professional responsibility, such as Rule 3.3 of the ABA Model Rules of Professional Conduct. It is important to emphasize the attorney's duty in the certification in the same manner that the *Interim Rule* reminds signatories of the applicability of 18 U.S.C. 1001. For company officials, who may not be bound by any professional rules of conduct, the certification should inform the official of the reasonable inquiry standard and that endorsing a certification indicates that the official is responsible for presenting the information, supervised the collection and presentation of the information, or exercised due diligence in reviewing the information presented through a review of company books and records beyond the information in the submitted document.

Another commenter argues that, should the Department include this type of requirement, it should provide guidance in order to set expectations for what is required to meet the ''reasonable inquiry'' or ''due diligence'' standard. The commenter suggests minimum standards. It should be expected that an attorney signing a certification will have examined worksheets, a sample of the original sources for the data included in a questionnaire response, and other submissions from the same company in other proceedings before the Department, the ITC, or U.S. Customs and Border Protection (CBP). Likewise, company officials, when certifying to the accuracy of information, should be held accountable for reading the submission and all supporting exhibits and attachments, and should be expected to possess knowledge of the underlying records from which the data were obtained. Another commenter agrees and suggests that the Department also outline the enforcement procedures it intends to follow in the event that it identifies misconduct related to certifications. Notifying the individuals that signed certifications of such procedures would deter false certifications.

Another commenter recommended that the Department revert to its original proposal and require representatives to make an ''inquiry reasonable under the circumstances'' before certifying the submission, and argues that such a requirement would be in accordance with the ethical guidelines already required by bar associations for counsel. Adding this language to the regulations would not add a burden that is not already present for attorneys. According to this commenter, even when foreign lawyers or consultants assist in preparing submissions, attorneys admitted to practice in the United States have an ethical obligation to make reasonable inquiries, by providing some meaningful level of investigation and due diligence, in order to prohibit the misrepresentation of facts by others. A reasonable, diligent inquiry should, according to this commenter, include a duty to investigate, and an obligation to conduct some form of due diligence into the veracity of a client's facts before certifying to the truth of those facts. Such an inquiry should require some investigation beyond taking the client at his or her word. Without an inquiry or investigation, an attorney is merely certifying that a client conveyed a fact, and that there was no cause to question it, which results in a certification that lacks credibility. The Department must, according to the commenter, be able to distinguish between an affirmative misrepresentation and the negligent failure to investigate, and must make efforts to eliminate both. As it stands, the *Interim Rule* only deters intentional misrepresentations, therefore creating an incentive for attorneys to be negligent. In addition, the commenter argues that by not requiring a reasonable inquiry, the certification ''advantages'' non-attorney representatives who are not bound by legal ethical rules.

One commenter supports the Department's rejection of the proposed requirement to make an ''inquiry reasonable under the circumstances,'' stating that difficulties can arise from the reasonable inquiry proposal and citing the Department's decision to reject similar proposals in the *Interim Rule. See Interim Rule* Comment 17. This commenter had previously pointed out that difficulties can arise from an ''inquiry reasonable under the circumstances'' as a result of language barriers, differing cultural and legal environments that reduce the ability of the U.S. attorney to verify data that the respondent company official has already certified as accurate and complete, and the fact that an attorney's ability to bring independent resources to the client's representation depends on the client's financial resources.

Response: The Department is not amending the certification itself to require that company officials and attorneys conduct an ''inquiry reasonable under the circumstances.'' As explained in the *Interim Rule,* the correct standard to place on representatives in AD/CVD proceedings through the certification process is that which exists in the Act. According to section 782(b) of the Act, any person providing factual information to the Department must certify that the ''information is accurate and complete to the best of that person's knowledge.'' This standard necessarily incorporates some review or inquiry by the certifying official. Accordingly, it is not necessary to incorporate that requirement explicitly into the language of the regulation. The standard in the certification is intended to be read in conjunction with any ethical obligations that a representative would already have as a result of professional rules such as rules of professional conduct. *See Interim Rule,* Comment 16.

8. Requirement That All Factual Information Being Submitted Is Consistent With That Provided to Any Other Agencies of the U.S. Government

Some commenters suggest that the company certification include language that the submission is consistent with information submitted to other U.S. Government agencies. This would require that counsel review the underlying company accounts and

records, and be held responsible for reviewing other submissions from the same company in other proceedings before the Department, the ITC, CBP, or other government agencies. One commenter added that counsel should be prepared to review submissions from other proceedings, or to other U.S. Government agencies, and ensure that later submissions are not inconsistent with previously certified documents.

Response: We have not adopted the suggestion to include language in the certification to indicate that the factual information contained in the submission is consistent with information submitted to other U.S. Government agencies. The purpose of the Department's certification regulation is to ensure that the information submitted to the Department is ''accurate and complete'' to the best of the certifier's knowledge, as required by section 782(b) of the Act. While it is expected that information will be consistent across submissions made to other agencies, such submissions are governed by the regulations of those agencies and are outside the Department's authority. Generally, the Department does not have the resources to gather and compare submissions made before other government agencies to identify inconsistencies and the Department cannot reasonably request that another agency confirm that information submitted to it and the Department is consistent. However, if specific evidence is provided in a proceeding indicating that there is an inconsistency between information provided to the Department and information provided to another agency, the Department may investigate such inconsistencies.

9. Requirement That Parties Certify Information They Did Not Prepare

One commenter argued that the Department should clarify that while certifications of information provided by or relating to a company's or government's own information should be certified by that party and its representative, a company or government is not in a position to certify the accuracy of another party's information. This is because submissions rebutting or commenting on the proprietary information filed by another party, such as questionnaire responses, often contain factual information that only the representative of the submitter can review under an APO. Therefore, a company or government should not be required to sign a certification for a submission addressing information that it did not supply and about which it has no knowledge. Only the representative that prepared the information should certify as to its accuracy.

Another commenter further noted that representatives for petitioners frequently submit factual information that is drawn from research of publicly available sources or collected by market researchers in order to clarify, rebut, or correct an opposing party's business proprietary information (BPI), which is released only to the company's representatives under APO. In these instances, the commenter argues, it is neither useful nor appropriate for company or government officials to certify to the accuracy of such externally sourced information, as stated under the *Interim Rule,* because such officials have no role in preparing or supervising preparation of the submission of factual information that is not their own. The *Interim Rule* currently requires that company officials certify to the accuracy of information that the Department's APO rules prohibit them from viewing. Accordingly, the commenter suggests that the *Interim Rule* be amended to clarify that the certification requirement for company officials applies only to factual information generated by the company or its affiliates. Where factual information is compiled by the representative, the certification requirement should apply only to the representative, and not to the company or government that has no role in the compilation of the information.

Another commenter elaborated further that only when a company has provided its own BPI should there be an obligation to submit any certification. This is pursuant to the Department's standard APO and its normal practice in situations where company officials do not have access to another company's BPI. Moreover, although the Department has already clarified that no certifications by either the representative or the company official are required when counsel is placing another party's information on the record, it should expand on this statement. The commenter also adds that the same should apply with respect to the submission of published materials, such as government publications, other published statistical data, audited financial statements, and other information found on the Internet or in printed publications, that are neither the party's nor the attorney's own.

Response: The regulation, at 19 CFR 351.303(g), currently states that a person must file with each submission containing factual information the certification provided in paragraph (g)(1). In addition, if the person has legal counsel or another representative, the certification provided in paragraph (g)(2) must also be filed. During the course of a proceeding various types of information are submitted by parties, such as a party's own factual information, information collected from third parties or public sources, surrogate value information, or another party's business proprietary information. Since implementing the *Interim Rule,* numerous parties have raised questions with respect to third party information and/or publicly obtained information and whether certifications are or should be required for such submissions. Since the implementation of the *Interim Rule,* the Department has also issued a final rule amending 19 CFR 351.102(b)(21), which defines the term ''factual information,'' and 19 CFR 351.301, which establishes time limits for filing factual information. *See Definition of Factual Information and Time Limits for Submission of Factual Information,* 78 FR 21246 (April 10, 2013) (*Factual Information Rule*). This rule identifies five categories of factual information and requires that the submitter specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted. *Id.,* 78 FR at 21247. Thus, a submission that contains factual information, as defined by the *Factual Information Rule,* must be certified by the company/government and its legal counsel or representative, if any. Section 351.102(b)(21)(iii) of the regulation specifies that ''factual information'' includes ''{p}ublicly available information submitted to value factors under § 351.408(c) or to measure the adequacy of remuneration under § 351.511(a)(2), or, to rebut, clarify, or correct such publicly available information submitted by any other interested party . . . .'' *Id.,* 78 FR at 21254. We note that surrogate value information falls clearly within the definition of factual information under the *Factual Information Rule* and therefore must be certified. The purpose of requiring company/government certifications even with submissions of factual information that have been obtained from public sources or compiled by a representative is that the company/government must take ultimate responsibility for the information that has been provided to the Department on its behalf. In doing so, it should be recognized that the signer is certifying to the ''best of {his/her} knowledge,'' as underscored by the language in the certification. Requiring company/government certifications for submissions containing third party public information, or information

compiled by a representative, also prevents parties from submitting information that they know may contain inaccurate facts or which the certifier knows has been superseded by revised information.

With regard to submissions containing another party's business proprietary information and to which a company/government has no access under APO regulations, we recognize the difficulties faced by parties in providing certifications. To eliminate ambiguity about what information the party is certifying in such submissions, the Department will require that the company/government certifications for such submissions be included in the public version of the document. We will not require that the company/government certifications be included in business proprietary documents filed under the one-day lag rule or the final business proprietary document involving another party's BPI. Although the public version of such documents would contain blanks or ranged data in place of the proprietary information, in certifying to the ''best of {its} knowledge,'' the company/government is certifying only the public information contained therein, and is informing the Department that it is aware of the submission filed on its behalf.

Furthermore, the Department will require that submissions containing both a company/government's own information and third party business proprietary information be certified. However, because we recognize that a company may only be able to certify the public information and its own business proprietary information that it has provided, we have modified the text of the certification to make clear that a party is certifying only all of the public and all of its own business proprietary information that it provides to the Department. When a submission contains both a company/government's own information and third party business proprietary information, the company/government certification must be included in the public version of the document. The company/government official's certification will serve to certify the accuracy and completeness of its own BPI and the public information contained in the submission because the Department considers the proprietary document and corresponding public version to constitute a single submission, *see infra* Comment 15. Accordingly, we have modified the text of the company and government certifications in 19 CFR 351.303(g)(1) to read as set out in the regulatory text of this rule.

The counsel or representative's certification must be included in all versions of the document, *i.e.,* the public version, the final business proprietary document, and the one-day lag version. The counsel/representative does not need a newly dated certification in instances where a final proprietary document is submitted after a one-day lag version is filed; the same certification can be included in the final business proprietary document and the corresponding public version.

In the *Interim Rule,* the Department provided a limited exception to the counsel/representative certification requirement, stating that ''{if}, however, counsel is placing another party's information on the record, no certification is required.'' Contrary to the arguments made by some of the commenters, this limited exception does not pertain to all third party information, but rather only to instances in which counsel or the representative moves third party information from the record of one segment of a proceeding to the record of another segment. *See Interim Rule,* Comment 16 and footnote 3. However, in order to comply with the legal requirement in section 782(b) of the Act that all factual information is certified by the person providing the information to the Department, to avoid confusion, and to remain consistent with the Department's definition of factual information as provided in the *Factual Information Rule,* the Department is removing this exception. Therefore, all submissions containing factual information must be certified, including submissions containing information being moved from the record of one segment of a proceeding to the record of another segment.

10. Applicability of Certification Rule to Procedural Submissions

One commenter argues that company and attorney certifications for extension requests and other similar procedural matters should not be required because such submissions do not constitute the submission of factual information. According to this commenter, requiring company and attorney certifications for procedural submissions, such as routine requests to extend submission due dates, fails to advance the objectives of the certification requirement. The Department should expressly disclaim this requirement. Whatever factual information may be referenced in extension requests does not constitute the submission of factual information with respect to the Department's consideration of whether dumping or subsidization is taking place, and the Department does not rely on such submissions in making final determinations or in issuing the results of administrative reviews.

Response: After considering the comments, the burden on parties to complete and file certifications, and other aspects of this issue, the Department has decided to create a narrow exception to the certification requirement for procedural submissions. Some examples of procedural submissions are: Requests for extension of time limits for questionnaire responses or other submissions, hearing requests, requests for review, letters of appearance, corrections to a previous submission that has been certified (as these will be deemed to be covered by the certification included in the earlier submission to which they belong), requests to extend preliminary and final determinations/results, requests for verification, requests for alignment with a parallel proceeding, and many APO filings.[4] Some examples of non-procedural submissions are: questionnaire responses, deficiency comments, surrogate value information, and other factual information placed on the record. To the extent that a factual submission also is procedural in nature, *e.g.,* a questionnaire response that also contains a request to extend a final determination, a certification is required.

While procedural submissions do contain factual information (*e.g.,* the reason the company or attorney/representative needs an extension of time to submit a questionnaire response), we agree that such information is not relevant to our analysis of dumping or subsidization, and could reasonably be considered outside the ambit of factual information necessary for certification purposes. The Department has also adopted this exemption to lessen the administrative burden on both the parties and the Department that results from the certification process. For example, in the preamble to the APO Procedures regulation we stated that the certification requirements would apply to letters of appearance. *See Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures,* 73 FR 3634, 3636–37 (January 22, 2008) (''*APO Procedures*''). In this final rule, we have determined that the certification requirements will only apply to submissions of factual information. Because letters of appearance are primarily procedural in nature and are not factual information as defined in 19

[4] *See* Comment 22 *infra* (discussing APO filings that are procedural in nature).

CFR 351.102(b)(21) and the *Factual Information Rule,* the certification requirements will not apply to letters of appearance. However, to the extent that the Department requires additional factual information to substantiate an interested party's status, a certification may be required.

11. Frequently Asked Questions

Because these new certification requirements will be administered by different Department personnel in different cases, there will likely be questions about the application of the certification requirements in various contexts. In order to ensure consistency, one commenter requested that the Department create a page on its Web site to post frequently asked questions (''FAQs'') and answers.

Response: The Department will develop a list of frequently asked questions and answers, and post it on Import Administration's Web site at *http://ia.ita.doc.gov/tlei/index.html.*

12. Government Certification

The *Interim Rule* required all company and foreign governments participating in AD/CVD proceedings to provide certifications with submissions of factual information. *See Interim Rule,* Comment 13. Because some comments received in response to the *Interim Rule* contested the appropriateness of requiring foreign governments and their officials to submit certifications that included a reference to criminal sanctions under U.S. law, the Department issued the *Supplemental Rule* in September 2011. The *Supplemental Rule* allowed foreign governments the option of submitting certifications in either the format that was in use prior to the effective date of the *Interim Rule,* which does not contain reference to U.S. criminal law, or in the format provided in the *Interim Rule,* until such time as the comments were analyzed and a final rule was published. Further, in the *Supplemental Rule,* the Department also invited public comment on the appropriateness of requiring foreign governments to submit the certifications provided for in the *Interim Rule,* which are summarized and responded to immediately below. *See Supplemental Rule.*

12a. Reference to U.S. Criminal Law (18 U.S.C. 1001)

One commenter stated that the Department should re-evaluate the language contained in the certification and determine whether it is appropriate to require foreign government officials to sign a certification that says that they may be held personally liable and subject to criminal sanctions. The commenter argued that this certification language is not appropriate for foreign government officials, and noted that the Department should be concerned that other governments may impose similar requirements on U.S. Government officials.

Another commenter has strongly opposed any changes to the Department's certification requirements as they apply to foreign governments and foreign government officials. According to this commenter, the Department's longstanding certification requirements are sufficient to allay any concerns that the Department may have regarding the veracity of information that is submitted to it. The commenter adds that no justification exists for concluding that those certification requirements are insufficient because the Department has not demonstrated the existence of significant or recurring problems involving certifications that underlie the Department's proposed and interim rule changes, particularly with regard to any submissions made by foreign governments. Further, the commenter contends that the Department's longstanding certification requirements and verification process should be sufficient to ensure that the information is reliable because they allow the Department to impose a remedy, in response to behavior which may be improper, in the form of adverse inferences in the use of facts available, which can result in serious consequences for respondents in investigations.

Two commenters have argued that it is a settled principle of international law that sovereign nations are independent and equal and are not subject to the jurisdiction and imposition of penalties, criminal or civil, by another sovereign nation. Further, they argue that international law recognizes that individual officials of sovereign governments, acting in their official capacities in performing acts attributable to that foreign sovereign government, are immune from suit or criminal prosecution for acts they perform as representatives of their governments. According to these commenters, this is an undisputed principle of customary international law and the law of nations based upon core aspects of sovereignty applicable in common law, civil law and other judicial systems, and is reflected in the primary international agreements among sovereign nations, including the United Nations Convention on Jurisdictional Immunities of States and Their Property. They also assert that these international principles are also reflected in U.S. law under the Foreign Sovereign Immunities Act (FSIA) (codified, in part, at 28 U.S.C. 1602–1611), and in U.S. common law, which recognizes that foreign government officials are entitled to immunity when they perform acts as the representatives of their governments and those actions are attributable to the foreign state, including instances when a foreign government official signs a document in the name of the foreign government. As such, both these commenters object to the Department's proposal to include language in government certifications that refers to additional purported legal penalties or liability or includes any reference to 18 U.S.C. 1001.

One of the commenters stated that it is inappropriate and unacceptable for the Department to impose on foreign governments a requirement that it certify to obligations and potential liability from which foreign governments and their officials are immune. According to the commenter, a government should be presumed to provide accurate information in good faith, thereby making the additional provisions and assurances that apply to certifications by governments entirely unnecessary. The commenter adds that the relevant WTO agreements, under Article 12.7 of the Agreement on Subsidies and Countervailing Measures (''SCM Agreement''), already provide the consequences when parties fail to comply with member countries' requests for information. The commenter argues that the Department's new certification requirements, as they apply to governments, exceed the U.S. Government's authority, as a signatory to the SCM Agreement, to impose consequences for a government's failure to provide necessary factual information within a reasonable period of time. The commenter notes that verifications carried out by the Department, consistent with its authority under Articles 12.5 and 12.6 of the SCM Agreement, are sufficient to ensure the reliability of the information supplied by interested parties. Further, the commenter states that the Department's authority to apply adverse facts available, consistent with Article 12.7 of the SCM Agreement, is the instrument for responding to any deficiencies found in the accuracy of any information submitted.

The commenter further argues that the Department's proposed additional certification requirements go beyond the authority granted by the U.S. Congress in the applicable statutory provision first established by Section 1331 of the Omnibus Trade and Competitiveness Act of 1988, and now section 782(b) of

the Act. The commenter argues that the Department's attempt to expand the certification obligation violates the specific requirements of the U.S. statute and clear Congressional intent. The commenter notes that its own certification requirements have proved to be reasonable, effective, and fully consistent with WTO Member obligations under the SCM Agreement and applicable international law, even though the commenter considers that requirement to be less onerous than either the one proposed under the *Interim Rule* or the previous longstanding U.S. certification requirements.

Another commenter objected to these arguments, stating that the principles of foreign sovereign immunity do not compel or warrant the withdrawal of the Department's revised certifications for foreign government officials, as the revised certification does not trigger any infraction of foreign sovereign immunity. Rather, the commenter asserts that the Department's proposed certification for foreign government officials does not expand, but only clarifies, the legal obligations that already exist under the Act, and the Department's regulations, ensuring that the importance of the accuracy of submitted factual information is explicitly conveyed in detail to parties. The commenter states that the proposed certification language, which specifies that the certifier is aware of criminal sanctions under U.S. law, does not address whether or how violations would be adjudicated or enforced and thus does not change any of the legal rights or arguments that may apply when a foreign government official signs the certification. As such, argues the commenter, the new certification for foreign government officials does not infringe upon any foreign government official's sovereign immunity.

This commenter also disagreed with the interpretation of certain SCM Agreement provisions, concluding that WTO member states have ceded their sovereignty regarding a fellow member state's ability to gather ''accurate'' and ''necessary'' information within the meaning of Articles 12.7 and 12.5 of the SCM Agreement. The commenter states that these provisions of the SCM Agreement allow the member states some leeway to ensure the ''accuracy'' of information submitted by foreign government officials. The commenter concludes that implementing a certification requirement for foreign government officials is a valid attempt to secure ''accurate'' information, as called for in Article 12.5 of the SCM Agreement.

This commenter also considers comments made by other parties regarding jurisdiction of foreign government officials to be incomplete. The commenter argues that the notion of foreign sovereign immunity is not absolute and, for instance, where a foreign government is confronted with a claim arising out of activities (such as commercial transactions) of the kind that are conducted by private persons, such immunity may not be available. This commenter also asserts that the U.N. Convention on Jurisdictional Immunities of States and Their Properties, which, though not yet entered into force, essentially codifies customary international law, also describes several exceptions to the general rule of a foreign state's immunity from a forum state's jurisdiction to adjudicate. The commenter also argues that there are exceptions to the FSIA's general rule that foreign states shall be immune from the jurisdiction of U.S. courts.

Another commenter argues that the Department should require foreign governments and their officials to certify the accuracy of information presented to the Department to the same extent, and in the same manner, that is required of company officials. In a CVD investigation, the commenter argues, foreign governments acting as respondents often submit information that is not available publicly, yet is necessary to the investigation, and this information is provided equal weight as factual information provided by companies in the Department's analysis. Even if sovereign immunity were to apply in some instances, the commenter argues that it should not excuse foreign government officials from certifying the accuracy of their statements to the Department. The commenter contends that in promulgating its final rule the Department should require the same certification for both company and foreign government officials.

Response: The Department disagrees that the requirements provided for in the government certification, as revised in the *Interim Rule,* exceed the authority granted by section 782(b) of the Act. In requiring government officials to file certifications, the Department is complying with section 782(b) of the Act, which requires that all persons submitting information on behalf of an interested party in an AD or CVD proceeding must certify that the information is accurate and complete to the best of that person's knowledge. As we explained in the *Interim Rule,* the amendments to the certifications were consistent with the legal obligations set out in the Act, served to identify more specifically the document to which a certification applies, and included a warning to make plain the consequences that already exist in the law for providing false statements, including false certifications. Moreover, the consequences for making false statements to the U.S. Government were always implicit under the previous certification requirement, and exist regardless of whether the Department's certifications explicitly cite to 18 U.S.C. 1001. *See Interim Rule,* 76 FR at 7493.

Nevertheless, in light of the concerns expressed by commenters, and after consulting with officials at the U.S. Department of State, the Office of the U.S. Trade Representative, and the U.S. Department of Justice, the Department has made changes to its revised certification and created a government-specific certification that does not include a reference to U.S. criminal law. The Department will, however, continue to require that foreign governments and their officials sign a certification that identifies more specifically the document to which the certification applies. The changes to the certification are intended to allay concerns over potential or inadvertent waiver of sovereign immunity, while contributing to the goal of strengthening the certifications in order to encourage accurate and complete submissions. We note that the changes to the government certification are not intended to change any of the potentially applicable consequences or penalties for providing false statements to the U.S. Government that already exist in the law. Further, the changes to the government certification are not intended to alter any of the legal provisions or any of the potentially applicable legal defenses (*e.g.,* foreign sovereign immunity) that may apply when a foreign government official signs a certification for purposes of the Department's AD and CVD proceedings.

12b. Recordkeeping Requirements

One commenter finds the requirement that foreign governments maintain original certifications to be objectionable and burdensome based on the principles of foreign sovereign immunity, and doubts whether such a requirement could serve any legitimate purpose. Another commenter contends that a requirement that foreign governments maintain original certifications for a period of five years is neither problematic for foreign government officials nor in violation of a country's foreign sovereign immunity.

Response: We have not changed our position on requiring foreign governments to maintain original

certifications for a period of five years from the filing of the document. This requirement is consistent with the requirement that companies, attorneys or representatives maintain the original certifications for a five-year period. *See* Comment 3, *supra.* However, we have moved this language from the text of the certification to the text of the regulation itself in order to make the recordkeeping requirements explicit and to make the placement of this requirement more consistent with the placement of other procedural requirements in this rule. We have also replaced the word ''retain'' with ''maintain'' in the text of the regulation, in order to make clearer that a foreign government, and its representative, can develop their own policies and practices for maintaining the original certification, so long as the original is readily available upon request by the Department, or another appropriate agency such as the Department's Office of Inspector General or the U.S. Department of Justice. However, it should be noted that the government of the certifying foreign government official is ultimately responsible for its official's certification and must produce the certifications upon the Department's request, regardless of the arrangements made to maintain the original certification.

Further, in an attempt to reduce the recordkeeping burden, the Department looked into the possibility of maintaining electronic copies of certifications instead of the original signed documents. However, until the Department has a system in place to accept electronic signatures, the original signed document must be maintained. The Department may modify the regulation at a later date to remove the recordkeeping requirement should electronic signatures become acceptable for use with the Department's electronic filing system. *See* Comment 3, *supra.*

Other Issues

Since the *Interim Rule* became effective, the public has raised a number of questions and administrative issues with respect to various aspects of certifications in the context of ongoing AD and CVD proceedings. The Department provides clarification and guidance on these issues below:

13. What Constitutes Factual Information

The definition of factual information is provided in 19 CFR 351.102(b)(21). The Department has amended the definition of factual information in the recently published *Factual Information Rule.* The regulation identifies five categories of factual information. Further, that regulation requires any person, when submitting factual information, to specify under which subsection of section 351.102(b)(21) the information is being submitted. *See id.,* 78 FR at 21247. Therefore, submissions identified as containing factual information, as defined by the *Factual Information Rule* and 19 CFR 351.102(b)(21), must include the required certifications.

14. Old Versus New Factual Information

The Act requires that any person providing factual information to the Department certify the accuracy and completeness of that information. The Act does not distinguish between factual information previously submitted to the Department (*i.e.,* ''old'') or factual information submitted for the first time (*i.e.,* ''new''). *See* section 782(b) of the Act. Further, it would be an additional burden on parties as well as the Department to assess the content of each submission to determine whether the submission contained ''old'' or ''new'' factual information. The Department will require certifications for information deemed to be ''factual information'' under 19 CFR 351.102(b)(21), regardless of whether it was previously submitted.

15. What Constitutes a Submission

For certification purposes, a ''submission'' is a document and/or data, whether comprised of a single part or several parts, that is identified by a single title and date, and which is accompanied by a certification which identifies such document. For certification purposes, the proprietary document and its corresponding public version constitute a single ''submission.'' The Department will deem missing pages, inadvertent omissions or errata filed within a reasonable period of time of the original submission to be covered by the certification(s) of the original submission to which these pages pertain so long as the party clearly identifies the submission to which such information belongs.

16. Date of Signature on Certification

Some parties have inquired about whether the date of signature, *i.e.,* the date the certification is signed, must be the same as the date on which the submission is filed or the date on the cover letter of the submission. The Department clarifies that the date of signature must be the actual date on which the person signs the certification, regardless of the filing date or the due date of the submission. The Department recognizes that company/government certifications will likely be signed prior to the date of filing. Therefore, it is not required that the date of signature match any other date. *See also* Comment 1 *supra.*

17. What Constitutes a Signature

Since implementing the *Interim Rule,* questions have arisen regarding what is an acceptable signature. The Department clarifies that the signature should be signed in ink and be in the certifier's own handwriting. Governments or entities that use a seal, emblem or stamp may continue to do so. However, the use of such devices should be in addition to the handwritten signature of the certifier and not as a substitute for the signature. Further, the certifier may sign in his or her own language, with the expectation, as articulated in the certification itself, that the certifier understands and accepts the obligations expressed therein.

18. Electronic Signatures

The Department is unable to permit electronic signatures at the present time, as explained in Comment 3, *supra.* A scanned copy of a signature, regardless of its format, does not constitute a signature for certification purposes as it could allow for manipulation of the certification process because, for example, persons other than the certifying official may have access to the data file with the signature and may simply attach the signature to the submission. This could allow company officials to claim that they are not responsible for false statements or omissions in a submission because they did not sign the certification or authorize the use of their scanned signature. The Department will continue to evaluate the feasibility of accepting electronic signatures within the parameters of IA ACCESS. Should the Department identify an electronic signature process that is compatible with IA ACCESS, and adopt such a process, the Department will announce this change on the IA ACCESS Web site at *http://iaaccess.trade.gov,* and in the IA ACCESS Handbook. Until such time, a certifier must sign in the certifier's own handwriting and maintain the original certification for a five-year period from the date of filing. The company/government may provide a copy of the certification to legal counsel/representative for purposes of filing the submission with the Department.

19. Who Can Certify for a Company

As stated in the certification template, the certifier is a person ''currently

employed by'' the company. For purposes of the certification requirement, the Department considers ''employed by'' to mean a person performing work under an employer-employee relationship. An ''employee'' is a person in the service of another where the employer has the power or right to control and direct the employee with respect to what work will be done and how it will be done, and the employee receives payment or other compensation for services from the employer. In this regard, an ''employee'' of the party submitting factual information is to be distinguished from an independent contractor(s) or agent(s) of the party. The certifier(s) must be employed by the party submitting the factual information at the time the submission is made to the Department and the certifier(s) must have prepared or supervised the preparation of the submission. The Department may require proof of employment from the employer. *See Hebei Foreign Trade and Advertising Corp.* v. *United States,* 807 F. Supp. 2d 1317, 1321 (CIT 2011) (quoting *Final Results of Redetermination Pursuant to Court Remand* (Dep't Commerce July 26, 2011) (Consol. Court No. 09–00524)) (discussing in more detail the requirement that an employee certify submissions).

In instances where the person that prepared or otherwise supervised the preparation of a submission is unable to certify due to an extenuating circumstance, the Department may allow, on a case-by-case basis, this responsibility to be assumed by another official in the company, government, or firm. The company/government/firm must explain such circumstances in its cover letter to the submission indicating the reasons why the person that prepared or otherwise supervised the preparation of a submission is unable to certify the specific submission.

20. Case and Rebuttal Briefs

We will not require certification for case and rebuttal briefs, as these documents are limited, consistent with 19 CFR 351.309, to written arguments based on submissions containing factual information that would already have been accompanied by the appropriate certifications.

21. Allowing One Interested Party To Certify on Behalf of Other Interested Parties When Counsel/Representative Represents Several Interested Parties in a Proceeding

At times, several interested parties are represented by a single law firm/representative in a proceeding. Some law firms/representatives have expressed concern about the requirement of obtaining certifications from each of the interested parties they represent whenever a submission is filed, stating that it impedes the filing process, particularly in time-sensitive filings. Recognizing that it could be cumbersome for counsel/representative to obtain certifications from each of the interested parties it represents, the Department has decided to allow one interested party to certify on behalf of all the interested parties represented by the same counsel/representative, provided that all of the interested parties agree in writing to such an arrangement. If all parties are in agreement, the designated counsel/representative must file an initial letter identifying the ''lead'' party who will certify on behalf of all of the other interested parties. In addition, this initial letter must contain certifications from each of the parties that will be represented. We note that a union, association, or coalition (*i.e.,* interested parties within the meaning of section 771(9) (D), (E), (F) or (G) of the Act) is not required to provide with the initial letter additional certifications from their constituent members, because the union, association, or coalition itself is the interested party. Further, in subsequent filings during a proceeding, the Department will not accept a certification solely from the ''lead'' party if the submission contains any information that belongs to another of the member interested parties. In such instances, both the lead party and the party(ies) whose information is contained in the submission must certify the information by including certifications in the public version of the document. *See* Comment 9, *supra,* with regard to submissions containing several parties' BPI. Similarly, if a union, association, or coalition files a submission containing information that belongs to any of its constituent members or provides information in a submission on a disaggregated basis, then those individual constituent members must also certify the submission by including a certification in the public version of the document.

Where there is more than one representative/law firm representing multiple parties, the representative certifications must be from the ''lead'' interested party's representative and the representative of the party whose specific information is contained in the submission. *See* Comment 5 *supra,* with regard to multiple law firms.

22. APO Applications and Other APO-Related Administrative Filings

An APO application contains a certification within the application itself and thus does not require an additional representative certification pursuant to 19 CFR 351.303(g). Other APO-related filings, such as certifications of destruction, requests for removal of authorized applicants from the APO service list, disposition and transfer of documents and address changes, are more procedural in nature and thus also do not require certification. *See* Comment 10 *supra* (explaining that procedural submissions do not require a certification).

23. Handling of Deficiencies in Certifications

If the Department determines that a certification contains inaccuracies or deficiencies, it will usually provide two business days from the time the Department notifies the party for the party to correct and resubmit the certification. This time limit is consistent with other regulations, such as 19 CFR 351.304(d), for nonconforming submissions.

24. Representative Certifications and Designation as ''Counsel'' or ''Representative''

Since implementing the *Interim Rule,* questions have arisen regarding whether a representative must specify, within the representative certification, whether they are serving as ''counsel'' or ''representative'' to the interested party. In addition, questions have arisen regarding whether foreign attorneys may appear as attorneys in Department proceedings and use the ''counsel'' designation in the representative certification.

The Department recently addressed similar questions in promulgating 19 CFR 351.313. *See Attorneys/Representatives Accountability Regulation,* 78 FR at 22774, 22777. In its final rule, the Department explained that ''an attorney, who is eligible to practice pursuant to the rules of the bar of the highest court of any State, possession, territory, or Commonwealth of the United States, or of the District of Columbia, who is not currently under suspension or disbarment, may practice as an attorney before the Department.'' *Id.* at 22774. The Department also noted that ''a foreign attorney, not licensed in the United States, a U.S. possession or territory, may not appear as an attorney in Department proceedings and may only appear as a non-attorney representative. . . .'' *Id.* at 22777. Finally, section 351.313 of the

Department's regulations provides that '' '{a}ttorney' pursuant to {§ 351.313} and 'legal counsel' in § 351.303(g) have the same meaning. 'Representative' pursuant to {§ 351.313} and in § 351.303(g) has the same meaning.''

Consistent with the *Attorneys/Representatives Accountability Regulation* and 19 CFR 351.313, the Department clarifies that for certification purposes, a person may use the ''counsel'' designation only if s/he is a member of the bar of the highest court of any State, possession, territory, or Commonwealth of the United States, or of the District of Columbia. Foreign attorneys who are not licensed in the United States, a U.S. possession, or territory must use the ''representative'' designation for certification purposes.

Accordingly, the Department has modified the text of the representative certification in 19 CFR 351.303(g)(2) as set out in the regulatory text of this rule to allow for representatives to select the appropriate designation.

Classification

Executive Order 12866

This Final Rule has been determined to be not significant for purposes of Executive Order 12866.

Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.,* the Chief Counsel for Regulation at the Department of Commerce has certified to the Chief Counsel for Advocacy, Small Business Administration, that this final rule would not have a significant economic impact on a substantial number of small entities. The factual basis for this certification was published with the *Interim Rule* and is not repeated here. No comments were received regarding the economic impact of this rule. As a result, the conclusion in the certification memorandum for the *Interim Rule* remains unchanged and a final regulatory flexibility analysis is not required and one has not been prepared.

Paperwork Reduction Act

This rule does not contain a collection of information for purposes of the Paperwork Reduction Act of 1980, as amended (44 U.S.C. 3501 et seq.).

Executive Order 13132

It has been determined that this rule does not contain federalism implications warranting the preparation of a federalism assessment.

List of Subjects in 19 CFR Part 351

Administrative practice and procedure, Antidumping duties, Business and industry, Confidential business information, Countervailing duties, Investigations, Reporting and recordkeeping requirements.

Dated: July 8, 2013.

Paul Piquado,

Assistant Secretary for Import Administration.

For the reasons stated above, 19 CFR part 351 is amended as follows:

PART 351—ANTIDUMPING AND COUNTERVAILING DUTIES

■ 1. The authority citation for 19 CFR Part 351 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 1202 note; 19 U.S.C. 1303 note; 19 U.S.C. 1671 *et seq.;* and 19 U.S.C. 3538.

■ 2. Section 351.303(g) is revised to read as follows:

§ 351.303 Filing, document identification, format, translation, service, and certification of documents.

* * * * *

(g) *Certifications.* Each submission containing factual information must include the following certification from the person identified in paragraph (g)(1) of this section and, in addition, if the person has legal counsel or another representative, the certification in paragraph (g)(2) of this section. The certifying party must maintain the original signed certification for a period of five years from the date of filing the submission to which the certification pertains. The original signed certification must be available for inspection by U.S. Department of Commerce officials. Copies of the certifications must be included in the submission filed at the Department.

(1) For the person(s) officially responsible for presentation of the factual information:

(i) COMPANY CERTIFICATION *

I, (PRINTED NAME AND TITLE), currently employed by (COMPANY NAME), certify that I prepared or otherwise supervised the preparation of the attached submission of (IDENTIFY THE SPECIFIC SUBMISSION BY TITLE) due on (DATE) OR filed on (DATE) pursuant to the (INSERT ONE OF THE FOLLOWING OPTIONS IN { }: {THE (ANTIDUMPING OR COUNTERVAILING) DUTY INVESTIGATION OF (PRODUCT) FROM (COUNTRY) (CASE NUMBER)} or {THE (DATES OF PERIOD OF REVIEW) (ADMINISTRATIVE OR NEW SHIPPER) REVIEW UNDER THE (ANTIDUMPING OR COUNTERVAILING) DUTY ORDER ON (PRODUCT) FROM (COUNTRY) (CASE NUMBER)} or {THE (SUNSET REVIEW OR CHANGED CIRCUMSTANCE REVIEW OR SCOPE RULING OR CIRCUMVENTION INQUIRY) OF THE (ANTIDUMPING OR COUNTERVAILING) DUTY ORDER ON (PRODUCT) FROM (COUNTRY) (CASE NUMBER)}). I certify that the public information and any business proprietary information of (CERTIFIER'S COMPANY NAME) contained in this submission is accurate and complete to the best of my knowledge. I am aware that the information contained in this submission may be subject to verification or corroboration (as appropriate) by the U.S. Department of Commerce. I am also aware that U.S. law (including, but not limited to, 18 U.S.C. 1001) imposes criminal sanctions on individuals who knowingly and willfully make material false statements to the U.S. Government. In addition, I am aware that, even if this submission may be withdrawn from the record of the AD/CVD proceeding, the U.S. Department of Commerce may preserve this submission, including a business proprietary submission, for purposes of determining the accuracy of this certification. I certify that a copy of this signed certification will be filed with this submission to the U.S. Department of Commerce.

Signature: _____

Date: _____

* For multiple person certifications, all persons should be listed in the first sentence of the certification and all persons should sign and date the certification. In addition, singular pronouns and possessive adjectives should be changed accordingly, *e.g.,* ''I'' should be changed to ''we'' and ''my knowledge'' should be changed to ''our knowledge.''

(ii) GOVERNMENT CERTIFICATION **

I, (PRINTED NAME AND TITLE), currently employed by the government of (COUNTRY), certify that I prepared or otherwise supervised the preparation of the attached submission of (IDENTIFY THE SPECIFIC SUBMISSION BY TITLE) due on (DATE) OR filed on (DATE) pursuant to the (INSERT ONE OF THE FOLLOWING OPTIONS IN { }: {THE (ANTIDUMPING OR COUNTERVAILING) DUTY INVESTIGATION OF (PRODUCT) FROM (COUNTRY) (CASE NUMBER)} or {THE (DATES OF PERIOD OF REVIEW) (ADMINISTRATIVE OR NEW SHIPPER) REVIEW UNDER THE (ANTIDUMPING OR COUNTERVAILING) DUTY ORDER ON (PRODUCT) FROM (COUNTRY) (CASE NUMBER)} or {THE (SUNSET REVIEW OR CHANGED CIRCUMSTANCE REVIEW OR SCOPE RULING OR CIRCUMVENTION INQUIRY) OF THE (ANTIDUMPING OR COUNTERVAILING) DUTY ORDER ON (PRODUCT) FROM (COUNTRY) (CASE NUMBER)}). I certify that the public information and any business proprietary information of the government of (COUNTRY) contained in this submission is accurate and complete to the best of my knowledge. I am aware that the information contained in this submission may be subject to verification or corroboration (as appropriate) by the U.S. Department of Commerce. In addition, I am aware that, even if this submission may be withdrawn from the record of the AD/CVD proceeding, the U.S. Department of Commerce may preserve

this submission, including a business proprietary submission, for purposes of determining the accuracy of this certification. I certify that a copy of this signed certification will be filed with this submission to the U.S. Department of Commerce.

Signature: _____

Date: _____

** For multiple person certifications, all persons should be listed in the first sentence of the certification and all persons should sign and date the certification. In addition, singular pronouns and possessive adjectives should be changed accordingly, *e.g.,* ''I'' should be changed to ''we'' and ''my knowledge'' should be changed to ''our knowledge.''

(2) For the legal counsel or other representative:

REPRESENTATIVE CERTIFICATION

* * *

I, (PRINTED NAME), with (LAW FIRM or OTHER FIRM), (INSERT ONE OF THE FOLLOWING OPTIONS IN { }: {COUNSEL TO} or {REPRESENTATIVE OF}) (COMPANY NAME, OR GOVERNMENT OF COUNTRY, OR NAME OF ANOTHER PARTY), certify that I have read the attached submission of (IDENTIFY THE SPECIFIC SUBMISSION BY TITLE) due on (DATE) OR filed on (DATE) pursuant to the (INSERT ONE OF THE FOLLOWING OPTIONS IN { }: {THE (ANTIDUMPING OR COUNTERVAILING DUTY) INVESTIGATION OF (PRODUCT) FROM (COUNTRY) (CASE NUMBER)} or {THE (DATES OF PERIOD OF REVIEW) (ADMINISTRATIVE OR NEW SHIPPER) REVIEW UNDER THE (ANTIDUMPING OR COUNTERVAILING) DUTY ORDER ON (PRODUCT) FROM (COUNTRY) (CASE NUMBER)} or {THE (SUNSET REVIEW OR CHANGED CIRCUMSTANCE REVIEW OR SCOPE RULING OR CIRCUMVENTION INQUIRY) OF THE (ANTIDUMPING OR COUNTERVAILING) DUTY ORDER ON (PRODUCT) FROM (COUNTRY) (CASE NUMBER)}). In my capacity as (INSERT ONE OF THE FOLLOWING OPTIONS IN { }: {COUNSEL} or {ADVISER, PREPARER, OR REVIEWER}) of this submission, I certify that the information contained in this submission is accurate and complete to the best of my knowledge. I am aware that U.S. law (including, but not limited to, 18 U.S.C. 1001) imposes criminal sanctions on individuals who knowingly and willfully make material false statements to the U.S. Government. In addition, I am aware that, even if this submission may be withdrawn from the record of the AD/CVD proceeding, the U.S. Department of Commerce may preserve this submission, including a business proprietary submission, for purposes of determining the accuracy of this certification. I certify that a copy of this signed certification will be filed with this submission to the U.S. Department of Commerce.

Signature: _____

Date: _____

*** For multiple representative certifications, all representatives and their firms should be listed in the first sentence of the certification and all representatives should sign and date the certification. In addition, singular pronouns and possessive adjectives should be changed accordingly, *e.g.,* ''I'' should be changed to ''we'' and ''my knowledge'' should be changed to ''our knowledge.''

[FR Doc. 2013–17045 Filed 7–16–13; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 573

[Docket No. FDA–2008–F–0151]

Food Additives Permitted in Feed and Drinking Water of Animals; Ammonium Formate

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; correcting amendment.

SUMMARY: The Food and Drug Administration (FDA) is amending the regulations for food additives permitted in feed and drinking water of animals to correct the description of ammonium formate used as an acidifying agent in swine feed. This action is being taken to improve the accuracy of the regulations.

DATES: This rule is effective July 17, 2013.

FOR FURTHER INFORMATION CONTACT: George K. Haibel, Center for Veterinary Medicine (HFV–6), Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855, 240–276–9019, email: *ghaibel@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: FDA has noticed the regulations for food additives permitted in feed and drinking water of animals do not correctly describe ammonium formate used as an acidifying agent in swine feed. At this time, FDA is making a correcting amendment. This action is being taken to improve the accuracy of the regulations.

List of Subjects in 21 CFR Part 573

Animal feeds, Food additives.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 573 is amended as follows:

PART 573—FOOD ADDITIVES PERMITTED IN FEED AND DRINKING WATER OF ANIMALS

■ 1. The authority citation for 21 CFR part 573 continues to read as follows:

Authority: 21 U.S.C. 321, 342, 348.

■ 2. Revise the introductory text of § 573.170 to read as follows:

§ 573.170 Ammonium formate.

The food additive, ammonium formate, may be safely used in the manufacture of complete swine feeds in accordance with the following prescribed conditions:

* * * * *

Dated: July 11, 2013.

Bernadette Dunham,

Director, Center for Veterinary Medicine.

[FR Doc. 2013–17106 Filed 7–16–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2012–0199]

Safety Zone; Chicago Harbor, Navy Pier Southeast, Chicago, IL

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the Navy Pier Southeast Safety Zone in Chicago Harbor during specified periods from July 3, 2013, through August 31, 2013. This action is necessary and intended to ensure safety of life on the navigable waters of the United States immediately prior to, during, and immediately after fireworks events. Enforcement of this safety zone will activate restrictions and control movement of vessels in a specified area immediately prior to, during, and immediately after various fireworks events. During the enforcement period, no person or vessel may enter the safety zone without permission of the Captain of the Port, Lake Michigan.

DATES: The regulations in 33 CFR 165.931 will be enforced at the specified dates and times listed in the **SUPPLEMENTARY INFORMATION** section that follows.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call or email MST1 Joseph McCollum, Prevention Department, Coast Guard Sector Lake Michigan, Milwaukee, WI at

414–747–7148, email *Joseph.P.Mccollum@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the Safety Zone; Chicago Harbor, Navy Pier Southeast, Chicago, IL listed in 33 CFR 165.931 for the following events:

(1) *Navy Pier Fireworks* with times and dates as follows:

July 17, 2013 from 9:15 p.m. through 9:45 p.m.;

July 20, 2013 from 10:00 p.m. through 10:30 p.m.;

July 24, 2013 from 9:15 p.m. through 9:45 p.m.;

July 27, 2013 from 10:00 p.m. through 10:30 p.m.;

July 31, 2013 from 9:15 p.m. through 9:45 p.m.;

August 3, 2013 from 10:00 p.m. through 10:30 p.m.;

August 7, 2013 from 9:15 p.m. through 9:45 p.m.;

August 8, 2013 from 9:15 p.m. through 9:45 p.m.;

August 9, 2013 from 10:00 p.m. through 10:30 p.m.;

August 10, 2013 from 10:00 p.m. through 10:30 p.m.;

August 14, 2013 from 9:15 p.m. through 9:45 p.m.;

August 17, 2013 from 10:00 p.m. through 10:30 p.m.;

August 21, 2013 from 9:15 p.m. through 9:45 p.m.;

August 24, 2013 from 10:00 p.m. through 10:30 p.m.;

August 28, 2013 from 9:15 p.m. through 9:45 p.m.;

August 31, 2013 from 10:00 p.m. through 10:30 p.m.

This safety zone encompasses the waters of Lake Michigan within Chicago Harbor between the east end of the Chicago Lock guide wall and the Chicago Harbor breakwater beginning at 41°53′24″ N, 087°35′26″ W; then south to 41°53′09″ N, 087°35′26″ W; then west to 41°53′09″ N, 087°36′09″ W; then north to 41°53′24″ N, 087°36′09″ W; then back to the point of origin. All vessels must obtain permission from the Captain of the Port, Lake Michigan, or his or her on-scene representative to enter, move within or exit the safety zone. Vessels and persons granted permission to enter the safety zone shall obey all lawful orders or directions of the Captain of the Port, Lake Michigan, or his or her on-scene representative.

This notice is issued under authority of 33 CFR 165.931 and 5 U.S.C. 552(a). In addition to this notice in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification of these enforcement periods via broadcast Notice to Mariners or Local Notice to Mariners. If the Captain of the Port, Lake Michigan, determines that the safety zone need not be enforced for the full duration stated in this notice, he or she may use a Broadcast Notice to Mariners to grant general permission to enter the safety zone. The Captain of the Port, Lake Michigan, or his or her on-scene representative may be contacted via VHF Channel 16.

Dated: July 1, 2013.

M.W. Sibley,

Captain, U.S. Coast Guard, Captain of the Port, Lake Michigan.

[FR Doc. 2013–17104 Filed 7–16–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2013–0140]

Safety Zone; USA Triathlon; Milwaukee Harbor, Milwaukee, Wisconsin.

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the safety zone on Lake Michigan within Milwaukee Harbor, Wisconsin for the 2013 Olympic and Sprint Distance National Championships. This action is necessary and intended to ensure safety of life on the navigable waters during the 2013 Olympic and Sprint Distance National Championships. During the aforementioned periods, the Coast Guard will enforce restrictions upon, and control movement of, vessels in a specified safety zone. During the enforcement periods, no person or vessel may enter the safety zone without permission of the Captain of the Port, Lake Michigan.

DATES: This zone will be enforced from 10:15 a.m. until 1:15 p.m. on August 9, from 6:30 a.m. until 11:30 a.m. on August 10, and from 6:30 a.m. until 10:30 a.m. on August 11, 2013.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call or email MST1 Joseph McCollum, Prevention Department, Coast Guard Sector Lake Michigan, Milwaukee, WI at (414) 747–7148, email *Joseph.P.McCollum@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the safety zone listed in 33 CFR 165.T09–0140 Safety Zone; USA Triathlon, Milwaukee Harbor, Milwaukee, Wisconsin for the 2013 Olympic and Sprint Distance National Championships from 10:15 a.m. until 1:15 p.m. on August 9, from 6:30 a.m. until 11:30 a.m. on August 10, and from 6:30 a.m. until 10:30 a.m. on August 11, 2013. This zone encompasses all waters of Milwaukee Harbor, including Lakeshore inlet and Discovery World Marina, west of a line across the entrance to the Discovery World Marina connecting 43°02′15.1″ N, 087°53′37.4″ W and 43°01′44.2″ N, 087°53′44.6″ W (NAD 83).

All vessels must obtain permission from the Captain of the Port, Lake Michigan, or his or her on-scene representative to enter, move within, or exit a safety zone. Vessels and persons granted permission to enter the safety zone shall obey all lawful orders or directions of the Captain of the Port, Lake Michigan, or a designated representative.

This notice is issued under authority of 33 CFR 165.T09–0140 and 5 U.S.C. 552(a). In addition to this notice in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification of this event via Broadcast Notice to Mariners or Local Notice to Mariners. The Captain of the Port, Lake Michigan, or his or her on-scene representative may be contacted via VHF Channel 16.

Dated: July 1, 2013.

M.W. Sibley,

Captain, U.S. Coast Guard, Captain of the Port, Lake Michigan.

[FR Doc. 2013–17107 Filed 7–16–13; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2013–0412; FRL–9391–1]

Hexythiazox; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes new tolerances and revises existing tolerances for residues of hexythiazox in or on multiple commodities which are identified and discussed later in this document. Gowan Company and the Interregional Research Project Number 4 (IR–4) requested the tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective July 17, 2013. Objections and requests for hearings must be received on or before September 16, 2013, and must be filed in accordance with the instructions

provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2013–0412, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), EPA West Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Olga Odiott, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 308–9369; email address: *odiott.olga@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Printing Office's e-CFR site at *http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.*

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2013–0412 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before September 16, 2013. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2013–0412, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.htm.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

II. Summary of Petitioned-For Tolerance

In the **Federal Register** of September 28, 2012 (77 FR 59578) (FRL–9364–6), January 16, 2013 (78 FR 3377) (FRL–9375–4), and August 22, 2012 (77 FR 50661) (FRL–9358–9), EPA issued notices pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petitions (PP 2F8054 and PP 2F8073 by Gowan Company, P.O. Box 556, Yuma, AZ 85336; and PP 2E8016 by the Interregional Research Project Number 4 (IR–4), 500 College Road East, Suite 201 W, Princeton, NJ 08540. The petitions requested that 40 CFR 180.448 be amended by establishing tolerances for residues of the insecticide hexythiazox, (trans-5-(4-chlorophenyl)-*N*-cyclohexyl-4-methyl-2-oxothiazolidine-3-carboxamide) and its metabolites containing the (4-chlorophenyl)-4-methyl-2-oxo-3-thiazolidine moiety, in or on grain, sorghum, grain at 3.0 parts per million (ppm); grain, sorghum, forage at 5 ppm; grain, sorghum, stover at 6 ppm; egg at 0.05 ppm; poultry, meat at 0.05 ppm; poultry, meat byproducts at 0.05 ppm; by increasing the established tolerance for milk from 0.02 ppm to 0.05 ppm and the established tolerances for ruminant meat byproducts from 0.05 ppm to 0.5 ppm (PP 2F8054); and by amending the regional restriction of the tolerances for cotton, gin byproducts; and cotton, undelinted seed by including Arizona (PP 2F8073). Petition 2E8016 requested that 40 CFR 180.448 be amended by establishing tolerances for residues of hexythiazox in or on pepper/eggplant subgroup 8–10B at 1.5 ppm; fruit, pome, group 11–10 at 0.25 ppm; caneberry subgroup 13–07A at 1.0 ppm; fruit, small, vine climbing, except fuzzy kiwifruit, subgroup 13–07F at 1.0 ppm; and berry, low growing, subgroup 13–07G at 3.0 ppm. The documents referenced summaries of the petitions, which are available in the docket, *http://www.regulations.gov* by docket ID numbers EPA–HQ–OPP–2012–0624 (PP 2F8054), EPA–HQ–OPP–2012–0923 (PP 2F8073), and EPA–HQ–OPP–2012–0357 (PP 2E8016). There were no comments received in response to the notices of filing.

Based on EPA's review of the data supporting the petitions, Gowan Company revised their petition PP 2F8054 by adding a request for an increase in the established tolerance for grain, aspirated fractions; deleting the proposed tolerance for poultry, meat; and by deleting the proposed changes to the established tolerances for milk; and for poultry, meat byproducts.

The IR–4 revised their petition PP 2E8016 by increasing the proposed tolerances for fruit, pome, group 11–10; and for berry, low growing, subgroup13–07G. The reasons for these changes are explained in Unit IV.C.

III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will

result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

Consistent with FFDCA section 408(b)(2)(D), and the factors specified in FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for hexythiazox including exposure resulting from the tolerances established by this action. EPA's assessment of exposures and risks associated with hexythiazox follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The toxicity database for hexythiazox is complete. Hexythiazox has low acute toxicity by the oral, dermal, and inhalation routes of exposure. It produces mild eye irritation, is not a dermal irritant, and is negative for dermal sensitization. Hexythiazox is associated with toxicity of the liver and adrenals following subchronic and chronic exposure to dogs, rats, and mice, with the dog being the most sensitive species. The prenatal developmental studies in rabbits and rats and the two-generation reproduction study in rats showed no indication of increased susceptibility to *in utero* and/or postnatal exposure to hexythiazox. Reproductive toxicity was not observed. There is no concern for immunotoxicity or neurotoxicity following exposure to hexythiazox. The toxicology database for hexythiazox does not show any evidence of treatment-related effects on the immune system. Hexythiazox is classified as ''likely to be carcinogenic to humans;'' however, the evidence as a whole is not strong enough to warrant a quantitative estimation of human risk. Since the effects seen in the study that serves as the basis for the chronic reference dose (RfD) occurred at doses substantially below the lowest dose that induced tumors, the Agency concluded that quantification of risk using a non-linear approach; i.e., RfD, for hexythiazox will adequately account for all chronic toxicity, including carcinogenicity, that could result from exposure to hexythiazox.

Specific information on the studies received and the nature of the adverse effects caused by hexythiazox as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found at *http://www.regulations.gov* in document ''Hexythiazox. Human Health Risk Assessment to Support New Uses on Grain Sorghum, Pepper/Eggplant Subgroup 8–10B, Pome Fruit Group 11–10, Caneberry Subgroup 13–07A, Small Vine Climbing, Except Fuzzy Kiwifruit Subgroup 13–07F, and Low Growing Berry Subgroup 13–07G'' in docket ID number EPA–HQ–OPP–2013–0412.

B. Toxicological Points of Departure/Levels of Concern

Once a pesticide's toxicological profile is determined, EPA identifies toxicological points of departure (POD) and levels of concern to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each toxicological study to determine the dose at which no adverse effects are observed (the NOAEL) and the lowest dose at which adverse effects of concern are identified (the LOAEL). Uncertainty/safety factors are used in conjunction with the POD to calculate a safe exposure level—generally referred to as a population-adjusted dose (PAD) or a reference dose (RfD)—and a safe margin of exposure (MOE). For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www.epa.gov/pesticides/factsheets/riskassess.htm.*

A summary of the toxicological endpoints for hexythiazox used for human risk assessment is discussed in Unit III.B. of the final rule published in the **Federal Register** of February 8, 2013 (78 FR 9322) (FRL–9376–9).

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to hexythiazox, EPA considered exposure under the petitioned-for tolerances as well as all existing hexythiazox tolerances in 40 CFR 180.448. EPA assessed dietary exposures from hexythiazox in food as follows:

i. *Acute exposure.* Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1-day or single exposure. No such effects were identified in the toxicological studies for hexythiazox; therefore, a quantitative acute dietary exposure assessment is unnecessary.

ii. *Chronic exposure.* In conducting the chronic dietary exposure assessment EPA used the food consumption data from the USDA U.S. Department of Agriculture's 2003–2008 National Health and Nutrition Examination Survey, What We Eat in America (NHANES/WWEIA). As to residue levels in food, EPA used tolerance level residues, assumed 100 percent crop treated (PCT), and incorporated DEEM default processing factors when processing data were not available.

iii. *Cancer.* EPA determines whether quantitative cancer exposure and risk assessments are appropriate for a food-use pesticide based on the weight of the evidence from cancer studies and other relevant data. Cancer risk is quantified using a linear or nonlinear approach. If sufficient information on the carcinogenic mode of action is available, a threshold or nonlinear approach is used and a cancer RfD is calculated based on an earlier noncancer key event. If carcinogenic mode of action data are not available, or if the mode of action data determines a mutagenic mode of action, a default linear cancer slope factor approach is utilized. Based on the data summarized in Unit III.A. of the **Federal Register** of March 17, 2010 (75 FR 12691) (FRL–8813–7), EPA has concluded that a nonlinear RfD approach is appropriate for assessing cancer risk to hexythiazox. Cancer risk was assessed using the same exposure estimates as discussed in Unit III.C.1.ii.

iv. *Anticipated residue and percent crop treated (PCT) information.* EPA did not use anticipated residue and/or PCT information in the dietary assessment for hexythiazox. Tolerance level

residues and/or 100% CT were assumed for all food commodities.

2. *Dietary exposure from drinking water.* The Agency used screening level water exposure models in the dietary exposure analysis and risk assessment for hexythiazox in drinking water. These simulation models take into account data on the physical, chemical, and fate/transport characteristics of hexythiazox. Further information regarding EPA drinking water models used in pesticide exposure assessment can be found at *http://www.epa.gov/oppefed1/models/water/index.htm.*

Based on the Pesticide Root Zone Model/Exposure Analysis Modeling System (PRZM/EXAMS), the estimated drinking water concentrations (EDWCs) of hexythiazox for chronic exposures for non-cancer and cancer assessments is estimated to be 4.31 parts per billion (ppb) for surface water. Since surface water residues value greatly exceed groundwater EDWCs, surface water residues were used in the dietary risk assessment. Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model.

3. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets). Hexythiazox is currently registered for the following uses that could result in residential exposures: Ornamental plantings, turf, and fruit and nut trees in residential settings. EPA assessed residential exposure using the following assumptions: Residential handler exposures are expected to be short-term (1 to 30 days) via either the dermal or inhalation routes of exposures. Since a quantitative dermal risk assessment is not needed for hexythiazox; MOEs were calculated for the inhalation route of exposure only. Both adults and children may be exposed to hexythiazox residues from contact with treated lawns or treated residential plants. Adult postapplication exposures were not assessed since no quantitative dermal risk assessment is needed for hexythiazox and inhalation exposures are typically negligible in outdoor settings. The exposure assessment for children included incidental oral exposure resulting from transfer of residues from the hands or objects to the mouth, and from incidental ingestion of soil. Post application hand-to-mouth and object-to-mouth exposures are expected to be short-term (1 to 30 days) in duration due to the intermittent nature of applications in residential environments. Given the long half-life of hexythiazox in soil, intermediate-term (1 to 6 months) exposure is also possible from incidental ingestion of soil. Further information regarding EPA standard assumptions and generic inputs for residential exposures may be found at *http://www.epa.gov/pesticides/trac/science/trac6a05.pdf.*

4. *Cumulative effects from substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.'' EPA has not found hexythiazox to share a common mechanism of toxicity with any other substances, and hexythiazox does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that hexythiazox does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's Web site at *http://www.epa.gov/pesticides/cumulative.*

D. Safety Factor for Infants and Children

1. *In general.* Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the FQPA Safety Factor (SF). In applying this provision, EPA either retains the default value of 10X, or uses a different additional safety factor when reliable data available to EPA support the choice of a different factor.

2. *Prenatal and postnatal sensitivity.* The prenatal and postnatal toxicology data base indicates no increased susceptibility of rats or rabbits to *in utero* and/or postnatal exposure to hexythiazox.

3. *Conclusion.* EPA has determined that reliable data show the safety of infants and children would be adequately protected if the FQPA SF were reduced to 1X. That decision is based on the following findings:

i. The toxicity database for hexythiazox is complete.

ii. There is no indication that hexythiazox is a neurotoxic chemical and there is no need for a developmental neurotoxicity study or additional UFs to account for neurotoxicity.

iii. There is no evidence that hexythiazox results in increased susceptibility in *in utero* rats or rabbits in the prenatal developmental studies or in young rats in the 2-generation reproduction study.

iv. There are no residual uncertainties identified in the exposure databases. The dietary food exposure assessments were performed based on 100% CT and tolerance-level residues. The dietary risk assessment is highly conservative and not expected to underestimate risk. EPA made conservative (protective) assumptions in the ground and surface water modeling used to assess exposure to hexythiazox in drinking water. EPA used similarly conservative assumptions to assess postapplication exposure of children as well as incidental oral exposure of toddlers. These assessments will not underestimate the exposure and risks posed by hexythiazox.

E. Aggregate Risks and Determination of Safety

EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing aggregate exposure estimates to the acute PAD (aPAD) and chronic PAD (cPAD). For linear cancer risks, EPA calculates the lifetime probability of acquiring cancer given the estimated aggregate exposure. Short-, intermediate-, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the appropriate PODs to ensure that an adequate MOE exists.

1. *Acute risk.* An acute aggregate risk assessment takes into account acute exposure estimates from dietary consumption of food and drinking water. No adverse effect resulting from a single oral exposure was identified and no acute dietary endpoint was selected. Therefore, hexythiazox is not expected to pose an acute risk.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to hexythiazox from food and water will utilize 82% of the cPAD for children 1–2 years of age the population group receiving the greatest exposure. Based on the explanation in Unit III.C.3., regarding residential use patterns, chronic residential exposure to residues of hexythiazox is not expected.

3. *Short-term risk.* Short-term aggregate exposure takes into account short-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Hexythiazox is currently registered for uses that could result in short-term residential exposure, and the Agency has determined that it is appropriate to aggregate chronic exposure through food and water with short-term residential exposures to hexythiazox.

Using the exposure assumptions described in this unit for short-term exposures, EPA has concluded the combined short-term food, water, and residential exposures result in aggregate MOEs of 9,100 for adults and 1,300 for children. Because EPA's level of concern for hexythiazox is a MOE of 100 or below, these MOEs are not of concern.

4. *Intermediate-term risk.* Intermediate-term aggregate exposure takes into account intermediate-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Hexythiazox is currently registered for uses that could result in intermediate-term residential exposure, and the Agency has determined that it is appropriate to aggregate chronic exposure through food and water with intermediate-term residential exposures to hexythiazox.

Using the exposure assumptions described in this unit for intermediate-term exposures, EPA has concluded that the combined intermediate-term food, water, and residential exposures result in aggregate MOEs of 9,300 for adults and 1,500 for children. Because EPA's level of concern for hexythiazox is a MOE of 100 or below, these MOEs are not of concern.

5. *Aggregate cancer risk for U.S. population.* As discussed in Unit III. C.1.iii., EPA concluded that regulation based on the chronic reference dose will be protective for both chronic and carcinogenic risks. As noted in this unit there are no chronic risks of concern.

6. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children from aggregate exposure to hexythiazox residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology (high performance liquid chromatography method with UV detection (HPLC/UV)) is available for the enforcement of tolerances for residues of hexythiazox and its metabolites containing the PT–1–3 moiety in crop and livestock commodities. This method is listed in the U.S. EPA Index of Residue Analytical Methods under hexythiazox as method AMR–985–87.

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex Alimentarius is a joint United Nations Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level.

Codex MRLs for plant commodities are established for eggplant at 0.1 ppm, pome fruit at 0.4 ppm, grapes at 1.0 ppm, and strawberry at 6 ppm (proposed) for residues of hexythiazox and its metabolites containing the PT–1–3-moiety, expressed as hexythiazox. The U.S. is currently harmonized with Codex with respect to residue definition in plants, and is recommending tolerances for CG 11–10 (pome fruit), CSG 13–07F (small, vine climbing fruit, except kiwifruit), and CSG 13–07G (low growing berry) that are harmonized with the current Codex MRLs for pome fruit, grapes (representative commodity of CSG 13–07F), and strawberry (representative commodity of CSG 13–07G). The current Codex MRL of 0.1 ppm for eggplant is based on a use in the Netherlands at a significantly lower application rate than the use currently proposed in the U.S. The Codex MRL would not cover residues seen in the U.S. field trial data; therefore harmonization with codex with respect to eggplants is not possible at this time.

The Agency is currently harmonized with Codex with respect to the residue definition in livestock commodities. The current milk tolerance of 0.05 ppm is harmonized with the Codex MRL for milk. The Agency is recommending an increase in the ruminant meat byproduct tolerances to 0.5 ppm and an increase in the current egg tolerance to 0.05 ppm to harmonize with Codex.

The Agency classified the use on poultry meat at § 180.6(a)(3), no reasonable expectation of finite residues; therefore the U.S. will not need to set a tolerance for this commodity. The relevant Codex MRL has been set at 0.05 ppm with a footnote that states ''absent at the limit of quantitation''. Effectively, the Codex MRL acknowledges the absence of residues and the U.S. determination that no tolerance is required results in a harmonized approach to residues in poultry meat. There are no Canadian or Mexican MRLs currently established for hexythiazox.

C. Revisions to Petitioned-For Tolerances

Based on EPA's review of the data supporting the petitions, Gowan Company revised their petition PP 2F8054 as follows:

- By adding a request for an increase in the established tolerance for grain, aspirated fractions from 0.5 ppm to 5 ppm. The submitted residue chemistry data show that sorghum residues concentrate in aspirated grain fractions (AGF), and that an increased tolerance of 5 ppm is needed to cover residues in sorghum AGF.
- By deleting the proposed tolerance for poultry, meat; and the proposed changes to the established tolerances for milk; and poultry, meat byproducts. Poultry metabolism and feeding studies demonstrate that there are not likely to be residues in poultry meat; therefore a tolerance on poultry meat is not required. The data also shows that the current tolerances for milk; and poultry, meat byproducts; are adequate and no changes are required at this time.

The IR–4 revised their petition PP 2E8016 as follows:

- By increasing the proposed tolerances for fruit, pome, group,11–10 from 0.25 ppm to 0.4 ppm; and for berry, low growing, subgroup13–07G from 3 ppm to 6 ppm. The Agency is recommending these changes to harmonize with Codex MRLs.

The Agency is also removing the established tolerances for fruit, pome, group 11; caneberry subgroup 13A; grape; and strawberry from 40 CFR. These tolerances are being replaced by the fruit, pome, group 11–10; caneberry subgroup 13–07A; fruit, small, vine climbing, subgroup 13–07F, except fuzzy kiwifruit; and berry, low growing, subgroup 13–07G, respectively. The Agency concluded that based on the residue data, these changes are required to support the new uses.

V. Conclusion

Therefore, tolerances are established for residues of hexythiazox and its metabolites containing the (4-chlorophenyl)-4-methyl-2-oxo-3-thiazolidine moiety, as requested in the petitions.

VI. Statutory and Executive Order Reviews

This final rule establishes tolerances under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Because this final rule has been exempted from review under Executive Order 12866, this final rule is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), nor does it require any special considerations under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), do not apply.

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000) do not apply to this final rule. In addition, this final rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA) (15 U.S.C. 272 note).

VII. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: July 2, 2013.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. In § 180.448:

■ a. Remove the following commodities in the table in paragraph (a) ''Caneberry subgroup 13A;'' ''Fruit, pome, group 11;'' ''Grape;'' and ''Strawberry.''

■ b. Revise the following commodities in the table in paragraph (a) ''Cattle, meat byproducts;'' ''Egg;'' ''Goat, meat byproducts;'' ''Grain, aspirated fractions;'' ''Horse, meat byproducts;'' and ''Sheep, meat byproducts.''

■ c. Add alphabetically the commodities to the table in paragraph (a).

■ d. Revise the following commodities in the table in paragraph (c) ''Cotton, gin byproducts, CA only;'' and ''Cotton, undelinted seed, CA only.''

■ e. Add alphabetically the commodities to the table in paragraph (c).

The revisions and additions read as follows:

§ 180.448 Hexythiazox; tolerance for residues.

(a) *General.* * * *

Commodity	Parts per million
* * * * *	
Berry, low growing, subgroup 13–07G	6
Caneberry subgroup 13–07A	1
* * * * *	
Cattle, meat byproducts	0.5
* * * * *	
Egg	0.05
Fruit, pome, group 11–10	0.4
Fruit, small, vine climbing, subgroup 13–07F, except fuzzy kiwifruit	1
* * * * *	
Goat, meat byproducts	0.5
Grain, aspirated fractions	5
* * * * *	
Horse, meat byproducts	0.5
* * * * *	
Pepper/eggplant subgroup 8–10B	1.5
* * * * *	
Sheep, meat byproducts	0.5
* * * * *	

* * * * *

(c) *Tolerances with regional registrations.* * * *

Commodity	Parts per million
* * * * *	
Cotton, gin byproducts, CA and AZ only	3.0
Cotton, undelinted seed, CA and AZ only	0.20
* * * * *	
Sorghum, grain, forage (EPA Regions 6–8 only)	5
Sorghum, grain, grain (EPA Regions 6–8 only)	3
Sorghum, grain, stover (EPA Regions 6–8 only)	6

Commodity	Parts per million
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[FR Doc. 2013–16911 Filed 7–16–13; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1 and 54

[CC Docket No. 02–6; FCC 13–81]

Application for Review of a Decision of the Wireline Competition Bureau by Dooly County School System; Schools and Libraries Universal Service Support Mechanism

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (Commission), denies in part and dismisses in part an Application for Review filed by the Dooly County School System and rescinds the remaining interim filing procedures established by the Commission in the 2001 *Interim Filing Procedures Order.* These actions are needed to provide clarity and certainty as to the filing deadline for applications for review arising from Universal Service Administrative Company-related proceedings.

DATES: Effective August 16, 2013.

FOR FURTHER INFORMATION CONTACT: Regina Brown, Attorney, Wireline Competition Bureau, (202) 418–0792 or TTY: (202) 418–0484.

SUPPLEMENTARY INFORMATION: This is a summary of that portion of the Commission's Order which rescinds the remaining interim filing procedure established by the Commission in the 2001 *Interim Filing Procedures Order* in CC Docket No. 02–6; FCC 13–81, released on June 10, 2013. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY–A257, 445 12th Street SW., Washington, DC 20554 or at the following Internet address: *http://transition.fcc.gov/Daily_Releases/Daily_Business/2012/db0425/DA–12–646A1.pdf.*

1. As codified in the Code of Federal Regulations, the Commission's rules state that ''the application for review and any [supplement] thereto shall be filed within 30 days of public notice of such action.'' Dooly County's Application for Review was filed on January 10, 2012, which was more than 30 days after public notice of the Bureau's *Al-Ihsan Academy Order,* which was released on December 5, 2011. Therefore, in its Application for Review, Dooly County also seeks a waiver of the application for review filing deadline, if needed. As an initial matter, however, Dooly County argues that a waiver of the deadline for filing an application for review is unnecessary because the current deadline for filing an application for review arising from USAC-related proceedings is 60 days from public notice of such action as established in the Commission's December 2001 *Interim Filing Procedures Order,* 67 FR 3441, January 24, 2002, and not 30 days as provided in the Code of Federal Regulations. Because we dismiss in part Dooly County's Application for Review on the basis that Dooly County did not afford the Bureau an opportunity to address the arguments raised in its Application for Review, and deny it in part with respect to its argument previously raised with and denied by the Bureau, and because Dooly County did not demonstrate good cause exists warranting a waiver of the Commission's rules, we need not address the question of whether Dooly County's filing was timely.

2. However, to provide clarity and certainty as to the filing deadline for applications for review arising from USAC-related proceedings, we take this opportunity to rescind the interim emergency filing procedures for applications for review arising from USAC-related proceedings established by the Commission the *Interim Filing Procedures Order.* In the *Interim Filing Procedures Order,* due to emergency events in Washington, DC arising from the September 11, 2001 terrorist attacks, the Commission amended its procedural rules ''on an emergency, interim basis . . . to extend the period of filing a request for review, or applications for review arising from [USAC-related] proceedings, from the current 30 day period to 60 days, to provide applicants with the option of electronic filing (via either electronic mail or facsimile) for requests for review and petitions for reconsideration or applications for review that arise from such pleadings.'' until further notice. Subsequently, in April 2003, the Commission released the *Schools and Libraries Second Report and Order,* 68 FR 36931, June 20, 2003, which permanently extended the deadline for filing initial appeals with USAC or the Commission to 60 days. The *Schools and Libraries Second Report and Order* did not, however, address the extended filing period for applications for review. Subsequently, the Commission rescinded all other emergency filing procedures adopted in late 2001 with the exception of the emergency filing procedures established in the *Interim Filing Procedures Order.* By this Order, we therefore rescind the interim filing procedures established by the Commission in the *Interim Filing Procedures Order.* As stated by the Commission in the *Interim Filing Procedures Rescission Order,* mail delivery in the Washington, DC area has greatly improved since 2001 and the United States Postal Service has greatly reduced the delay in processing mail. Also, the Commission has since 2001 expanded it electronic filing capabilities, and implemented its own processes to combat the threat of contamination of incoming mail. Given these circumstances, we conclude that the interim electronic filing procedures adopted by the Commission in 2001 are no longer necessary. Accordingly, we rescind those procedures, effective 30 days after publication of this Order in the **Federal Register**. Thereafter, filings of applications for review arising from USAC-related proceedings will no longer be accepted by facsimile or email and will be due within 30 days from public notice of such action, as provided in the Commission's rules. Once these clarifications take effect, the Bureau will issue a Public Notice announcing their effectiveness and explaining the correct procedures.

3. This document does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. In addition, therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4).

4. *Accordingly, it is ordered* that, pursuant to the authority of section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), the interim electronic filing procedures adopted in the *Interim Filing Procedures Order,* FCC 01–376, *are rescinded.*

5. *It is further ordered* that the rescission of the interim electronic filing procedures adopted in the *Interim Filing Procedures Order* shall become effective August 16, 2013.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2013–17055 Filed 7–16–13; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 13–52; RM–11693; DA 13–1379]

Radio Broadcasting Services; Matagorda, Texas

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Audio Division, at the request of Tejas Broadcasting Ltd., LLP, allots FM Channel 291A and deletes FM Channel 252A at Matagorda, Texas. This allotment change is part of a hybrid rule making and FM application proposal. Channel 291A can be allotted at Matagorda, consistent with the minimum distance separation requirements of the Commission's rules, at city reference coordinates of 28–41–25 NL and 95–58–02 WL, without site restriction. Concurrence by the Government of Mexico is required because Channel 291A at Matagorda, Texas, is located within 320 kilometers (199 miles) of the U.S.-Mexican border. Mexican concurrence has been requested for this vacant allotment, but has not yet been received. If a construction permit for Channel 291A at Matagorda, Texas is granted prior to receipt of formal concurrence by the Mexican government, the authorization will include the following condition: ''Operation with the facilities specified herein for Matagorda, Texas, is subject to modification, suspension, or termination without right to hearing, if found by the Commission to be necessary in order to conform to the Mexico-United States FM Broadcast Agreement, or if specifically objected to by the Government of Mexico.'' *See* Supplementary Information *infra.*

DATES: Effective August 16, 2013.

FOR FURTHER INFORMATION CONTACT: Deborah Dupont, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MB Docket No. 13–52, adopted June 12, 2013, and released June 14, 2013. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Information Center, Portals II, 445 12th Street SW., Room CY–A257, Washington, DC 20554. The complete text of this decision also may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street SW., Room CY–B402, Washington, DC, 20554, (800) 378–3160, or via the company's Web site, *www.bcpiweb.com.* This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any proposed information collection burden ''for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506 (c)(4). The Commission will send a copy of this Report and Order in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR part 73

Radio, Radio broadcasting.

Federal Communications Commission.

Nazifa Sawez,

Assistant Chief, Audio Division, Media Bureau.

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336 and 339.

§ 73.202 [Amended]

■ 2. Section 73.202(b), the Table of FM Allotments under Texas, is amended at Matagorda by removing Channel 252A, and by adding Channel 291A.

[FR Doc. 2013–17050 Filed 7–16–13; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 13–1376]

Radio Broadcasting Services; Various Locations

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Audio Division updates the FM Table of Allotments to reinstate five vacant FM allotments in various communities in Maryland, Oregon, Texas, Virginia, and Wyoming that were removed from FM Auction 94, because these allotments were not listed in the FM Table. These vacant allotments have previously undergone notice and comment rule making, but they were inadvertently removed from the FM Table of Allotments.

DATES: Effective July 17, 2013.

ADDRESSES: Federal Communications Commission, 445 Twelfth Street SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Rolanda F. Smith, Media Bureau, (202) 418–2700.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Order,* adopted June 13, 2013, and released June 14, 2013. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY–A257, 445 12th Street SW., Washington, DC 20554. This document may also be purchased from the Commission's duplicating contractors, Best Copy and Printing, Inc., 445 12th Street SW., Room CY–B402, Washington, DC 20554, telephone 1–800–378–3160 or via email *www.BCPIWEB.com.* This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any proposed information collection burden ''for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4). The Commission will not send a copy of this *Order* pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A), because these allotments were previously reported.

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

Federal Communications Commission.

Nazifa Sawez,

Assistant Chief, Audio Division, Media Bureau.

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336 and 339.

§ 73.202 [Amended]

■ 2. Amend § 73.202(b) Table of FM Allotments as follows:
■ a. Add Newark, under Maryland, Channel 235A.
■ b. Add Arlington, under Oregon, Channel 295C2.
■ c. Add Rocksprings, under Texas, Channel 291A.
■ d. Add Chincoteague, under Virginia, Channel 233A.
■ e. Add Baggs, under Wyoming, Channel 277A.

[FR Doc. 2013–17082 Filed 7–16–13; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[WT Docket Nos. 05–62 and 02–55; FCC 13–85]

Improving Public Safety Communications in the 800 MHz Band

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) modifies the freeze on new authorizations in the Business and Industrial Land Transportation (B/ILT) Pool in the 896–901 MHz/935–940 MHz band (900 MHz B/ILT Band) to allow a qualified entity to file an application for a new authorization in any given National Public Safety Planning Advisory Committee (NPSPAC) region before Sprint Nextel's 800 MHz rebanding efforts are complete in that region. This action will allow qualified applicants to gain access to 900 MHz B/ILT spectrum without unnecessary delay, and promote spectrum efficiency, by allowing access to spectrum that may otherwise be unused during the 800 MHz rebanding process.

DATES: Effective August 16, 2013.

FOR FURTHER INFORMATION CONTACT: Joyce Jones, Mobility Division, Wireless Telecommunications Bureau, *joyce.jones@fcc.gov,* (202) 418–1327, TTY (202) 418–7233.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Order on Reconsideration,* in WT Docket Nos. 05–62 and 02–55, FCC 13–85, adopted June 21, 2013, and released on June 24, 2013. The complete text of this document may be downloaded from the FCC Web site (*http://www.fcc.gov*) at *http://transition.fcc.gov/Daily_Releases/Daily_Business/2013/db0625/FCC-13-85A1.pdf.* This document and all related Commission documents are also available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street SW., Washington, DC 20554. A copy of the complete text may also be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., 445 12th Street SW., Room CY–B402, Washington, DC 20554. Alternative formats are available to persons with disabilities by sending an email to *FCC504@fcc.gov* or by calling the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY).

Synopsis of the Report and Order

1. In this document, the Commission grants, in accordance with the terms set forth in the *Order on Reconsideration,* the unopposed joint request for clarification or limited reconsideration filed by the Enterprise Wireless Alliance (EWA) and Sprint Nextel Corporation (Sprint Nextel) (collectively, ''Petitioners'') with respect to one aspect of the *Report and Order,* 73 FR 67794, November 17, 2008, in this proceeding, to allow a qualified entity to file an application for a new authorization in any given National Public Safety Planning Advisory Committee (NPSPAC) region before Sprint Nextel's 800 MHz rebanding efforts are complete in that region.

Background

2. The 900 MHz B/ILT Pool channels are licensed for the private internal communication needs of site-by-site licensees engaged in a variety of endeavors, from commercial (*e.g.,* land transportation, manufacturing, energy) to non-commercial (*e.g.,* clerical, educational, philanthropic, medical). In 2004, the Commission launched its 800 MHz rebanding initiative through the 800 MHz R&O. *See Report and Order (800 MHz R&O), 69 FR 67823, November 22, 2004; Supplemental Report and Order on Reconsideration* (*800 MHz Supplemental R&O*), *70 FR 6758, February 8, 2005.* Shortly thereafter, the Wireless Telecommunications Bureau (Bureau) issued a *Public Notice,* freezing acceptance of applications for new 900 MHz B/ILT licenses until further notice (a freeze that has remained in place continuously since then). *See Public Notice, 19 FCC Rcd 18277 (2004).*

3. In 2005, the Commission affirmed the freeze, in light of the fundamental changes it was proposing in the service areas and channel blocks for future licenses in the 900 MHz B/ILT service. *See Notice of Proposed Rulemaking and Memorandum Opinion and Order, 70 FR 13143, March 18, 2005.*

4. In 2008, the Commission declined to adopt the proposed changes and found that a wholesale freeze on applications for new 900 MHz B/ILT authorizations was no longer necessary. The Commission lifted the freeze in each NPSPAC region six months after rebanding was completed in that particular NPSPAC region, concluding that such an approach best balanced the demands for 900 MHz B/ILT spectrum, including the ongoing needs of Sprint Nextel for access to this spectrum to support its rebanding efforts. *See Report and Order,* 73 FR 67794, November 17, 2008.

5. *Discussion.* The Commission concludes that linking the lifting of the freeze to Sprint Nextel's concurrence—rather than to the completion of rebanding in a given NPSPAC region—is a more appropriately tailored approach for protecting the integrity of the rebanding process. The Commission finds that implementing this change will maximize effective use of this spectrum by permitting the initiation of new B/ILT service without unnecessary delay. While the Commission originally found that the delay was necessary as a component of the flexibility that Sprint Nextel required in order to fulfill its rebanding obligations, it finds that with Sprint Nextel's concurrence, the delay is no longer necessary. In addition, since the Commission launched its rebanding initiative in 2004, rebanding has only recently been completed in 11 out of 55 NPSPAC regions. Further, during this time, the Commission received 29 requests for waiver of the freeze. The Petitioners' requested relief would likely supplant the need for such filings and the associated paperwork burdens and adjudication costs. Accordingly, the Commission concludes that the public interest would be best served by lifting the freeze in NPSPAC regions that are still undergoing the rebanding process, or that are still within the six-month period after completion thereof, for any application for new 900 MHz B/ILT service that includes written concurrence from Sprint Nextel. Thus, the Commission clarifies that its relief extends regardless of the status of rebanding in a particular NPSPAC region, so long as the application includes such concurrence.

6. In all other respects, the Commission retains the policy adopted in the *Report and Order* that the freeze will be lifted in a NPSPAC region six months after rebanding is complete in that particular NPSPAC region. The Commission's action does not affect any

of the other conditions of lifting the freeze noted in the *Report and Order.*

I. Procedural Matters

A. Paperwork Reduction Act Analysis

7. The *Order on Reconsideration* does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. In addition, therefore, it does not contain any new or modified ''information collection burden for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

B. Congressional Review Act

8. The Commission will send a copy of the *Order on Reconsideration* in a report to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

C. Final Regulatory Flexibility Analysis

9. In the *Report and Order,* the Commission determined that the rules adopted there would not, under the Regulatory Flexibility Act of 1980, as amended (RFA),[1] have a ''significant economic impact on a substantial number of small entities.''[2] The rules adopted generally inured to the benefit of small businesses, in that they minimized the expense of resolution of interference complaints and allowed all entities, including small businesses, to apply, once again, for unencumbered 900 MHz B/ILT spectrum. *See Report and Order,* 73 FR 67794, November 17, 2008. We received no petitions for reconsideration of that Final Regulatory Flexibility determination. In this present *Order on Reconsideration,* the Commission promulgates no additional final rules, and our present action, therefore, does not alter our previous determination under the RFA.

II. Ordering Clauses

10. Pursuant to sections 1, 4(i), 303, 309, 316, 332, and 405 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 303, 309, 316, 332, and 405, the *Order on Reconsideration* is hereby adopted. The *Order on Reconsideration* shall become effective August 16, 2013.

11. The Commission shall send a copy of the *Order on Reconsideration* in a report to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

12. The Joint Request for Clarification or, in the Alternative, for Limited Reconsideration filed jointly by the Enterprise Wireless Alliance and Sprint Nextel Corporation on December 17, 2008, is hereby granted, under the conditions set forth in this *Order on Reconsideration.*

13. The freeze placed on applications for new 900 MHz Business/Industrial Land Transportation licenses by *Public Notice,* September 17, 2004, is hereby modified, under the conditions set forth in this *Order on Reconsideration.*

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2013–17058 Filed 7–16–13; 8:45 am]

BILLING CODE 6712–01–P

[1] The RFA, *see* 5 U.S.C. 601–612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Public Law 104–121, Title II, 110 Stat. 857 (1996).

[2] 5 U.S.C. 605(b).

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R3–ES–2012–0087; FXES11130900000C3–123–FF09E30000]

RIN 1018–AY45

Endangered and Threatened Wildlife and Plants; Establishment of a Nonessential Experimental Population of Topeka Shiner (Notropis topeka) in Northern Missouri

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), jointly with the Missouri Department of Conservation and the Nature Conservancy, will reestablish the Topeka shiner (*Notropis topeka*), a federally endangered fish. We will reestablish the Topeka shiner under section 10(j) of the Endangered Species Act of 1973, as amended (Act), and classify the reestablished population as a nonessential experimental population (NEP) within portions of the species' historical range in Adair, Gentry, Harrison, Putnam, Sullivan, and Worth Counties, Missouri. This final rule provides a plan for establishing the NEP and provides for allowable legal incidental taking of the Topeka shiner within the defined NEP area. The best available data indicate that reintroduction of Topeka shiner to portions of the species' historical range in Adair, Gentry, Harrison, Putnam, Sullivan, and Worth Counties, Missouri, is biologically feasible and will promote the conservation of the species.

DATES: This rule becomes effective August 16, 2013.

ADDRESSES: This final rule, along with the public comments, and the Environmental Action Statement for Categorical Exclusion are available on the Internet at *http://www.regulations.gov,* Docket No. FWS–R3–ES–2012–0087. Comments and materials received, as well as supporting documentation used in the preparation of this rule, will be available for public inspection, by appointment, during normal business hours at: U.S. Fish and Wildlife Service, Ecological Services Field Office, 101 Park DeVille Dr.; Suite A, Columbia, MO 65203; telephone: 573–234–2132; facsimile: 573–234–2181. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Services (FIRS) at 800–877–8339.

FOR FURTHER INFORMATION CONTACT: Amy Salveter, Field Supervisor, telephone: 573–234–2132; facsimile: 573–234–2181. Direct all questions or requests for additional information to: Topeka Shiner Questions, U.S. Fish and Wildlife Service, Ecological Services Field Office, 101 Park DeVille Dr.; Suite A, Columbia, MO 65203. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Services (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Background

Statutory and Regulatory Framework

The Topeka shiner was listed as endangered throughout its range on December 15, 1998 (63 FR 69008), and critical habitat was designated in Iowa, Minnesota, and Nebraska on July 27, 2004 (69 FR 44736), under the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*). The Act provides that species listed as endangered are afforded protection primarily through the prohibitions of section 9 and the requirements of section 7. Section 9 of the Act, among other things, prohibits the take of endangered wildlife. ''Take'' is defined by the Act as harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engage in any such conduct. Section 7 of the Act outlines the procedures for Federal interagency cooperation to conserve federally listed species and protect designated critical habitat. It mandates that all Federal agencies use their existing authorities to further the

purposes of the Act by carrying out programs for the conservation of listed species. It also states that Federal agencies must, in consultation with the Service, ensure that any action they authorize, fund, or carry out is not likely to jeopardize the continued existence of a listed species or result in the destruction or adverse modification of designated critical habitat. Section 7 of the Act does not affect activities undertaken on private land unless they are authorized, funded, or carried out by a Federal agency.

The 1982 amendments to the Act (16 U.S.C. 1531 *et seq.*) included the addition of section 10(j) which allows for the designation of reintroduced populations of listed species as ''experimental populations.'' Under section 10(j) of the Act and our regulations at 50 CFR 17.81, the Service may designate as an experimental population a population of endangered or threatened species that has been or will be released into suitable natural habitat outside the species' current natural range (but within its probable historical range, absent a finding by the Director of the Service in the extreme case that the primary habitat of the species has been unsuitably and irreversibly altered or destroyed). With the experimental population designation, the relevant population is treated as threatened for purposes of section 9 of the Act, regardless of the species' designation elsewhere in its range. Threatened designation allows us discretion in devising management programs and special regulations for such a population. Section 4(d) of the Act allows us to adopt whatever regulations are necessary and advisable to provide for the conservation of a threatened species. In these situations, the general regulations that extend most section 9 prohibitions to threatened species do not apply to that species, and the 10(j) rule contains the prohibitions and exemptions necessary and appropriate to conserve that species.

Before authorizing the release as an experimental population of any population (including eggs, propagules, or individuals) of an endangered or threatened species, and before authorizing any necessary transportation to conduct the release, the Service must find, by regulation, that such release will further the conservation of the species. In making such a finding, the Service uses the best scientific and commercial data available to consider: (1) Any possible adverse effects on extant populations of a species as a result of removal of individuals, eggs, or propagules for introduction elsewhere; (2) the likelihood that any such experimental population will become established and survive in the foreseeable future; (3) the relative effects that establishment of an experimental population will have on the recovery of the species; and (4) the extent to which the introduced population may be affected by existing or anticipated Federal or State actions or private activities within or adjacent to the experimental population area.

Furthermore, as set forth in 50 CFR 17.81(c), all regulations designating experimental populations under section 10(j) must provide: (1) Appropriate means to identify the experimental population, including, but not limited to, its actual or proposed location, actual or anticipated migration, number of specimens released or to be released, and other criteria appropriate to identify the experimental population(s); (2) a finding, based solely on the best scientific and commercial data available, and the supporting factual basis, on whether the experimental population is, or is not, essential to the continued existence of the species in the wild; (3) management restrictions, protective measures, or other special management concerns of that population, which may include but are not limited to, measures to isolate and/or contain the experimental population designated in the regulation from natural populations; and (4) a process for periodic review and evaluation of the success or failure of the release and the effect of the release on the conservation and recovery of the species.

Under 50 CFR 17.81(d), the Service must consult with appropriate State fish and wildlife agencies, local governmental entities, affected Federal agencies, and affected private landowners in developing and implementing experimental population rules. To the maximum extent practicable, section 10(j) rules represent an agreement between the Service, the affected State and Federal agencies, and persons holding any interest in land that may be affected by the establishment of an experimental population.

Based on the best scientific and commercial data available, we must determine whether the experimental population is essential or nonessential to the continued existence of the species. The regulations (50 CFR 17.80(b)) state that an experimental population is considered essential if its loss would be likely to appreciably reduce the likelihood of survival of that species in the wild. All other populations are considered nonessential.

We have determined that this experimental population will not be essential to the continued existence of the species in the wild, because its loss will not be likely to appreciably reduce the likelihood of survival of Topeka shiner in the wild. We made this determination because several populations of Topeka shiner are considered secure and our 5-year review concluded that the species is resilient to many threats identified at the time of listing (Service 2009, pp. 32–33).

In our January 23, 2013, proposed rule (78 FR 4813) to establish this experimental population in three areas in northern Missouri, our preliminary determination that the population was nonessential was based on the existence of secure populations of Topeka shiner in South Dakota and Minnesota, as well as the apparent resiliency of the species to many threats identified at the time of listing. This led us to conclude that loss of this experimental population would not appreciably reduce the likelihood of survival of the Topeka shiner in the wild. Since publishing that proposed rule, we have undertaken efforts to re-evaluate the status of the species, particularly in the northern part of its range where large complexes of occupied streams exist. We will not conclude that status review before establishing this experimental population, thus we determined it appropriate to re-evaluate the nonessential status of this experimental population without consideration of the existing northern populations.

While the states of South Dakota and Minnesota are estimated to contain 70 percent of the currently known Topeka shiner populations, they represent only approximately 20 percent of the species' known historical range; the remaining estimated 80 percent of the Topeka shiner's historical range occurs in Nebraska, Iowa, Kansas, and Missouri (Service 2010, p. 32). Topeka shiner occupancy varies throughout its historical range, and certain areas experience apparently greater levels of threats (Service 2010, pp. 30–31). While some local population declines since listing have been documented in Kansas and Missouri (Service 2010, pp. 8, 9), Iowa, Minnesota, Nebraska, and South Dakota have documented additional occupied streams since listing (Service 2010, pp. 6–7; Mena 2013, pers. comm.). The majority of occupied watersheds identified at the time of the species' listing continue to be occupied today, despite ongoing actions that may affect the species.

Recovery actions for the Topeka shiner are also being undertaken that lower extinction risk across the range.

For example, management plans currently being implemented by the Missouri Department of Conservation (MDC 1999), the Kansas Department of Wildlife and Parks (Mammoliti 2004), and the Fort Riley Military Installation (U.S. Army 2001) were sufficient to preclude the need to designate critical habitat in Missouri and Kansas (69 FR 44736). Further, two of the plans have been updated (MDC 2010; U.S. Army 2010), and this proposed reintroduction in Missouri represents an important State-Federal partnership intended to fulfill Missouri's Ten Year Strategic Plan for Recovery of the Topeka Shiner in Missouri (MDC 2010). Captive-rearing efforts have been successful, and plans are ongoing to reintroduce Topeka shiners to a Kansas watershed where the species was determined to be recently extirpated (Tabor 2013, pers. comm.). Recovery actions in Iowa to restore off-channel habitats to allow use by Topeka shiners have been effective (Service 2012). Nebraska Game and Parks Commission developed a conservation assessment in 2012 for Topeka shiners to assist in future conservation decisionmaking (Panella 2012). Topeka shiners have been identified in two new occupied streams in Nebraska since listing (Mena 2013, pers. comm.).

With extant populations and ongoing recovery actions within the range of the Topeka shiner, the species is expected to persist in other watersheds within its historical range even if this reintroduction effort is unsuccessful. We do not believe the species will be in greater peril, nor will its likelihood of survival in the wild be appreciably reduced if this experimental population is lost. We also recognize the nonessential designation is important to our recovery partners, and including section 10(j) is consistent with the Congressional intent of the 1982 amendment of the Act. Congress allowed such experimental populations to be identified as either essential or nonessential, but noted the expectation that most experimental populations would be nonessential (H.R. Conference Report No. 835, supra at 34; Service 1984, p. 3388). As noted in our 1984 implementing regulations, an essential experimental population would be a special case, not the general rule (H.R. Conference Report No. 835, supra at 34; Service 1984, p. 3388). Therefore, we determine that this experimental population of Topeka shiners in three areas in northern Missouri is nonessential to the continued existence of the species in the wild.

For the purposes of section 7 of the Act, we treat an NEP as a threatened species when the NEP is located within a National Wildlife Refuge or unit of the National Park Service, and Federal agency conservation requirements under section 7(a)(1) and the Federal agency consultation requirements of section 7(a)(2) of the Act apply. Section 7(a)(1) requires all Federal agencies to use their authorities to carry out programs for the conservation of listed species. Section 7(a)(2) requires that Federal agencies, in consultation with the Service, ensure that any action authorized, funded, or carried out is not likely to jeopardize the continued existence of a listed species or adversely modify its critical habitat. When NEPs are located outside a National Wildlife Refuge or National Park Service unit, then, for the purposes of section 7, we treat the population as proposed for listing and only section 7(a)(1) and section 7(a)(4) apply. In these instances, NEPs provide additional flexibility because Federal agencies are not required to consult with us under section 7(a)(2). Section 7(a)(4) requires Federal agencies to confer (rather than consult) with the Service on actions that are likely to jeopardize the continued existence of a species proposed to be listed. The results of a conference are in the form of conservation recommendations that are optional as the agencies carry out, fund, or authorize activities. Because the NEP is, by definition, not essential to the continued existence of the species, the effects of proposed actions affecting the NEP will generally not rise to the level of jeopardizing the continued existence of the species. As a result, a formal conference will likely never be required for Topeka shiners established within the NEP area. Nonetheless, some agencies voluntarily confer with the Service on actions that may affect a proposed species. Activities that are not carried out, funded, or authorized by Federal agencies are not subject to provisions or requirements in section 7.

On January 23, 2013, the Service published a proposed rule in the **Federal Register** to establish a nonessential experimental population of Topeka shiner within portions of the species' historical range in Adair, Gentry, Harrison, Putnam, Sullivan, and Worth Counties, Missouri (78 FR 4813). We contacted interested parties including Federal and State agencies, local governments, scientific organizations, interest groups, and private landowners through a press release and related fact sheets, and emails. In addition, we notified the public and invited comments through news releases to local media outlets. The public comment period for the proposed rule closed on March 25, 2013.

Section 10(j)(2)(C)(ii) of the Act states that critical habitat shall not be designated for any experimental population that is determined to be nonessential. Accordingly, we cannot designate critical habitat in areas where we establish an NEP.

Biological Information

The Topeka shiner is a small, stout minnow. This shiner species averages 1.5 to 2.5 inches (in.) (3.81–6.35 centimeters (cm)) in length at maturity, with a maximum size around 3 in. (7.62 cm) (Service 1993, p. 4; Service 1998, p. 69008; Missouri Department of Conservation (MDC) 2010, p. 9). The head is short, and the mouth does not extend beyond the front of the eye. The eye diameter is equal to or slightly longer than the snout. All fins are plain except for the tail fin, which has a chevron-shaped black spot at its base. Dorsal and pelvic fins each contain 8 rays (Service 1993, p. 4; Service 1998, p. 69008; MDC 2010, p. 9). The anal and pectoral fins contain 7 and 13 rays, respectively, and there are 32 to 37 lateral line scales. Dorsally, the body is olive with a distinct dark stripe preceding the dorsal fin. A dusky stripe runs along the entire length of the lateral line (Service 1993, p. 4; Service 1998, p. 69008; MDC 2010, p. 9). The scales above this line are darkly outlined with pigment, appearing cross-hatched. Below the lateral line, the body lacks pigment, appearing silvery-white (Pflieger 1975, pp. 161–162; Pflieger 1997, p. 154; Service 1993, p. 4; Service 1998, p. 69008). Males in breeding condition have orange-red fins and ''cheeks,'' and the dark lateral stripe diffuses. A distinct chevron-like spot exists at the base of the caudal fin (Pflieger 1975, pp. 161–162; Pflieger 1997, p. 154; Service 1993, p. 4; Service 1998, p. 69008).

Topeka shiners spawn in pool habitats over green sunfish (*Lepomis cyanellus*) and orangespotted sunfish (*L. humilis*) nests from late May through July in Missouri and Kansas (Pflieger 1975, p. 162; Pflieger 1997, p. 154; Kerns 1983, pp. 8–9; Kerns and Bonneau 2002, p. 139; Stark *et al.* 2002, pp. 147–149). Males establish small territories on the periphery of these nests. It is unclear to what extent Topeka shiners are obligated to spawn over sunfish nests, or whether they can successfully utilize other silt-free areas as spawning sites. In a fish hatchery pond environment, Topeka shiner production was greatly enhanced by the introduction of orangespotted sunfish (Cook 2011, pers. comm.). Topeka

shiners feed primarily on insects, such as midges (chironomids), true flies (dipterans), and mayflies (ephemeropterans), but they also are known to feed on zooplankton such as cladocera and copepoda (Kerns and Bonneau 2002, p. 138). Studies from Minnesota found Topeka shiners to be omnivorous, ingesting a significant amount of plant material and detritus along with animal matter (Dahle 2001, pp. 30–32; Hatch and Besaw 2001, pp. 229–230).

Topeka shiners are a schooling species found in mixed-species schools consisting primarily of redfin (*Lythrurus umbratilis*), sand (*Notropis stramineus*), common (*Luxilus cornutus*), and red shiners (*Cyprinella lutrensis*), and central stonerollers (*Campostoma anomalum*) (Pflieger 1997, p. 155; Kerns and Bonneau 2002, p. 139). Topeka shiners live a maximum of 3 years, although few survive to their third summer (Kerns 1983, p. 16; Dahle 2001, pp. 30–31; Kerns and Bonneau 2002, p. 138). Topeka shiner populations appear to be more tolerant than other native fish species to drought conditions in Kansas (Minckley and Cross 1959, p. 215; Barber 1986, pp. 70–71; Kerns and Bonneau 2002, p. 138). The Topeka shiner is tolerant of high water temperatures and low dissolved oxygen levels (Koehle 2006, p. 26), which may in part account for the Topeka shiner's apparent drought condition tolerance. Topeka shiners are typically found in small, low order, prairie streams with good water quality and cool temperatures. These streams generally flow all year; however, some may become intermittent during late summer and fall. Pool water levels and cool temperatures are maintained by percolation through the stream bed, spring flow, or groundwater seepage when surface water flow ceases in these stream reaches (Minckley and Cross 1959, p. 212; Pflieger 1975, p. 162; Service 1993, p. 5; Service 1998, p. 69008). Topeka shiners generally inhabit streams with clean gravel, cobble, or sand bottoms. However, bedrock and clay hardpan covered by a thin layer of silt are not uncommon (Minckley and Cross 1959, p. 212).

Topeka shiners are found in pools and runs, and only rarely in riffles. In the northern portion of its range (Iowa, Minnesota, and South Dakota), the Topeka shiner is frequently found in off-channel aquatic habitat (Clark 2000, p. 7; Dahle 2001, p. 8; Berg *et al.* 2004, p. 1). These habitats are characterized by lack of flow, moderate depth, and substrate composed of a thick silt and detritus layer (Dahle 2001, p. 9; Hatch 2001, p. 41). However, such off-channel habitat is rarely found along prairie headwater streams in Missouri. Occasionally, Topeka shiners have been found in larger streams, downstream of known populations, presumably as migrants (Pflieger 1975, p. 162; Service 1993, pp. 5–9; Service 1998, p. 69008). Dahle (2001, p. 39) noted that the Topeka shiner is a multiple clutch spawner and reported that relative abundance was higher in off-channel habitat than instream habitat.

The Topeka shiner was once widespread and abundant in headwater streams throughout the Central Prairie Region of the United States. The species' range historically included much of Missouri, Iowa, and Kansas, as well as portions of Nebraska, South Dakota, and Minnesota (Bailey and Allum 1962, pp. 68–70; Cross 1970, p. 254; Gilbert 1988, p. 317). In Missouri, Topeka shiners historically occurred in most of the prairie and Ozark border portions of north and central Missouri. With the exception of a population known from Cedar Creek, a tributary of the Des Moines River in Clark County (Mississippi River basin), all Topeka shiner populations in Missouri are known from the Missouri River basin. The species once occupied portions of the Missouri, Grand, Lamine, Chariton, Crooked, Des Moines, Loutre, Middle, Hundred and Two, and Little Blue river basins (MDC 2010, p. 10).

Since 1940, the species has been extirpated from many Missouri River tributaries, including Perche Creek, Petite Saline Creek, Tavern Creek, Auxvasse Creek, Middle River, Moreau River, Splice Creek, Slate Creek, Crooked River, Fishing River, Shoal Creek, Hundred and Two River, and Little Blue River watersheds (Bailey and Allum 1962, pp. 69–70; Pflieger 1971, p. 360; MDC 2010, p. 10). Topeka shiners have been observed in the following Missouri streams, with the most recent observations in parentheses: Moniteau Creek headwaters in Cooper and Moniteau Counties (2008), Clear Creek (1992) and a tributary of Heath's Creek (1995) in Cooper and Pettis Counties, Bonne Femme Creek watershed in Boone County (1997), Sugar Creek and tributaries in Daviess and Harrison Counties (2008), Dog Branch in Putnam County (1990), and Cedar Creek in Clark County (1987) (MDC 2010, p. 10; Novinger 2011, pers. comm.). It is presumed Topeka shiners are extirpated from the Bonne Femme Creek watershed (MDC 2010, p. 10).

The Topeka shiner in Missouri exists in highly disjunct populations in a small fraction of its historical range. Sampling specifically for Topeka shiners during the early 1990s found this species at only 19 percent (14 of 72) of historical sites, and at only 15 percent (20 of 136) of the total sites sampled in Missouri (Gelwicks and Bruenderman 1996, p. 5). Additionally, the remaining populations were found to be smaller than they had been recorded historically. For example, more than 300 Topeka shiners were recorded among 7 locations in Bonne Femme Creek from 1961 to 1983. However, during comparable surveys within the same watershed, in the 1990s, only six Topeka shiners were identified at two locations (Wiechman, MDC 2012, pers. comm.). The isolation and small size of the remaining populations makes them highly vulnerable to extirpation. Currently, remaining viable populations of Topeka shiners can be consistently found in only two Missouri stream systems: Moniteau Creek headwaters in Cooper and Moniteau Counties, and Sugar Creek headwaters in Daviess and Harrison Counties. Several other streams have produced samples of a few individuals in the past 25 years, but these occurrences are based on a very limited number of fish (MDC 2010, p. 10).

Effects of Establishing a Nonessential Experimental Population on Recovery of the Species

Restoring an endangered or threatened species to the point where it is recovered is a primary goal of the Service's endangered species program. Although a Service recovery plan has not been issued for the Topeka shiner, the MDC devised State-specific recovery criteria for the species in their 10-year Strategic Plan for the Recovery of the Topeka Shiner in Missouri (MDC 2010, p. 8). The recovery goal of this plan is to stabilize and enhance Topeka shiner numbers in Missouri by securing populations in seven streams. Seven populations would be equivalent to one half of the known populations sampled in Missouri since 1960. Two main criteria were established to accomplish the goal: (1) Reduce or eliminate major threats and restore suitable habitat in Moniteau Creek and Sugar Creek watersheds, and (2) introduce (or reintroduce) and establish secure populations in five additional streams (MDC 2010, p. 8). According to fisheries experts with the Missouri Department of Conservation and as outlined in MDC's strategic plan, the designation of a Topeka shiner NEP in Missouri is necessary to establish new populations in the State (MDC 2010, p. 26).

The MDC (2011a, pp. 1–2; 2011b, pp. 2–3; 2011c, p. 3) established six criteria for identifying possible reintroduction sites in Missouri: (1) Propagation and

release sites are to be under public ownership; (2) ownership involves a partner committed to conservation; (3) release sites are within relatively close proximity to existing Topeka shiner populations; (4) release sites are within the overall historical range of the species in Missouri; (5) the overall condition of the stream (e.g., land use, environmental parameters, stream bank and channel stability, ecological and biological integrity) and watershed is suitable; and (6) the perceived likelihood of success of the reintroduction is high because there are no physical barriers that will prevent the species from inhabiting these sites. We have selected high-quality streams for reintroduction that will support growth, survival, and natural reproduction. Sites selected are also deemed to be adequate to facilitate expansion of reintroduced populations.

Location of the Nonessential Experimental Population

Based on criteria outlined above for reintroduction sites, Little Creek headwaters in Harrison County; East Fork Big Muddy Creek in Gentry, Harrison, and Worth Counties; and tributaries of Spring Creek in Adair, Putnam, and Sullivan Counties have been identified for initial release efforts (MDC 2010, pp. 27–31). Although no historical records exist of Topeka shiner in the selected reintroduction sites, the species likely once inhabited these waters. Our conclusion is based on the following: (1) The species was historically known from adjacent watersheds—Little Creek and Big Muddy Creek are located approximately 16–19 air miles (mi.) (25.75–30.58 air kilometers (km)) from extant sites in Harrison County, Missouri (Wiechman 2012, pers. comm.), and the Spring Creek watershed in Adair, Putnam, and Sullivan Counties is located approximately 11 air mi. (17.7 air km) (Novinger 2012, pers. comm.) from a historical location in Putnam County, Missouri; (2) habitat is identical or similar to currently occupied sites in Harrison County, Missouri; and (3) the reintroduction sites have suitable habitat necessary for the successful establishment of the species (MDC 2011a, pp. 1–2).

The reintroduction areas will include both pond (similar to off-channel habitats used by the species elsewhere within its range) and stream habitats. Initial donor populations of Topeka shiner will originate from extant sites in Sugar Creek, Harrison County, and be propagated at MDC's Lost Valley Hatchery in Warsaw, Missouri. Future captive-breeding of the Topeka shiner would occur in pond habitats, and the progeny would be used to stock the NEP streams rather than continual use of the Lost Valley Hatchery (Novinger 2012, pers. comm.). The subsequent use of pond fish for ongoing reintroduction efforts will be dependent upon the success of propagation efforts at The Nature Conservancy's Dunn Ranch, MDC's Pawnee Prairie Natural Area (NA), and MDC's Union Ridge Conservation Area (CA) (see below) (Novinger 2012, pers. comm.).

Little Creek

Little Creek is a tributary to West Fork Big Creek in the greater Grand River drainage. The NEP portion of the watershed is located in the headwaters of Little Creek and is estimated at 7,600 acres (ac) (3,075 hectares (ha)). The area extends from the backwaters of Harrison County Lake, upstream to the headwaters of Little Creek, and includes all tributaries in this reach from the reservoir to headwaters. Specific reintroduction sites will be located in select ponds (greater than 8 feet (2.44 m) deep) and in headwater stream reaches on Dunn Ranch, which is owned and operated by The Nature Conservancy (TNC). Dunn Ranch comprises the upper half of the watershed, and it has several characteristics that promote a successful reintroduction program (e.g., land management within the watershed is excellent) (MDC 2011a, p. 2). Harrison County Lake (280 ac) (113.1 ha) is identified as the downstream extent of the NEP because it supports a popular sport fishery with abundant predator fishes (largemouth bass, crappie, channel catfish), which greatly limit the potential for downstream migration of cyprinid species (MDC 2011a, p. 2). Little Creek is approximately 16 air miles (mi.) (25.75 air kilometers (km)) from extant sites in Harrison County, Missouri (Wiechman 2012, pers. comm.). A physical barrier in Harrison County Lake downstream of the reintroduction site will prevent the mixing of wild and reintroduced populations of Topeka shiners (MDC 2011a, p. 7).

Big Muddy Creek

Big Muddy Creek is a tributary to the East Fork Grand River drainage, and its watershed covers 44,339 ac. Land use is predominantly grassland (60 percent), containing minor components of cropland (16 percent) and deciduous forest (15 percent). Cropland is concentrated in the bottomland along the mainstem of Big Muddy Creek. Grassed uplands are mostly used for cattle grazing and hay production. Headwaters of Big Muddy Creek (upper 33 percent of watershed) lie within the Grand River Grasslands Conservation Opportunity Area (GRGCOA). Two notable properties within the GRGCOA portion of Big Muddy Creek include MDC's Pawnee Prairie Natural Area (NA) (476 ac) (192 ha) and TNC's Pawnee Prairie (500 ac) (202 ha), which are cooperatively managed for native prairie and associated wildlife (MDC 2011b, pp. 1–2).

The 10-year-old GRGCOA covers approximately 70,000 ac (28,327 ha) in northern Missouri and southern Iowa, with approximately 14,800 ac (5,989 ha) (21 percent) located within the Big Muddy Creek basin. In northern Missouri, GRGCOA is believed to have the greatest potential to restore a functioning tallgrass prairie ecosystem on a landscape scale. The MDC, TNC, the Iowa Department of Natural Resources, the Natural Resources Conservation Service, the Service, and interested private landowners are working cooperatively to restore prairie, promote soil conservation practices, and enhance habitat for prairie chickens in this area. Prescribed burning is commonly used to help meet these objectives. Experimental patch-burn grazing on Pawnee Prairie NA is also being evaluated by MDC and Iowa State University (MDC 2011b, p. 2).

The eastern side of MDC's Emmet and Leah Seat Memorial (Seat) Conservation Area (CA) (2,030 ac) (821 ha) is located within the Little Muddy Creek basin, a lower sub-basin to Big Muddy Creek. Little Muddy Creek basin is located outside the GRGCOA. Seat CA is a mixture of old field, grasslands, cropland, and woodland habitats. The area features public hunting (deer, turkey, quail, small game), primitive camping, an archery range, 16 fishable ponds (totaling 13 ac), and a permanent stream. The area is managed primarily for upland game hunting (MDC 2011b, p. 2).

The Big Muddy Creek watershed, from its confluence with East Fork Grand River upstream through all headwaters, is included in the NEP area for the following reasons: (1) There are no known fish barriers; (2) there are no reservoirs (except small farm ponds) with abundant predator fishes; and (3) stream size remains relatively small with habitat conditions comparable to those found in reaches of Sugar Creek where Topeka shiners occur. Big Muddy Creek is approximately 19 air miles (mi.) (30.58 air kilometers (km)) from extant sites in Harrison County, Missouri (Wiechman 2012, pers. comm.). East Fork Grand River is believed to effectively limit the potential for downstream migration of

cyprinids given its higher densities of predator fishes (predominantly channel catfish) and minimal cover for small fish (MDC 2011b, p. 2). A physical barrier in the East Fork of the Grand River downstream of the reintroduction site will prevent mixing of wild and reintroduced populations of Topeka shiners (MDC 2011b, p. 9).

Spring Creek

Spring Creek is a tributary to the Chariton River, and its watershed covers 60,869 ac (24,632 ha). Land use is essentially limited to deciduous woodlands (41 percent) and grassland (39 percent), with only 10 percent cropland. Cropland is concentrated in the bottomland along the mainstem of Spring Creek and in the upper watershed in the Unionville Plains. Grassed uplands are mostly used for cattle grazing and hay production. The Union Ridge Conservation Opportunity Area (URCOA) and the Spring Creek Priority Watershed (SCPW) encompass roughly 75 percent of the Spring Creek watershed. MDC ownership within the watershed includes Morris Prairie CA (167 ac) (67 ha), Dark Hollow NA (315 ac) (127 ha), Union Ridge CA (8,110 ac) (3,282 ha), and Shoemaker CA (259 ac) (104 ha). Morris Prairie NA (47 ac) (19 ha) and Spring Creek Ranch NA (1,769 ac) (716 ha) are located within the boundaries of Morris Prairie CA and Union Ridge CA, respectively. These properties are managed for native prairie-savanna-woodland and associated wildlife (MDC 2011c, p. 1).

The Spring Creek watershed, from its confluence with the Chariton River upstream through all headwaters, is included in the NEP area for the following reasons: (1) There are no known fish barriers; (2) there are no reservoirs (except small farm ponds) with abundant predator fishes; and (3) stream size remains relatively small, with habitat conditions comparable to those found in reaches of Sugar Creek where Topeka shiners occur. The Spring Creek watershed in Adair, Putnam, and Sullivan Counties is located approximately 47 air mi. (75.64 air km) (Wiechman 2012, pers. comm.) from extant sites in Harrison County, and the Spring Creek locations are not in any watershed where there are extant records of Topeka shiner (MDC 2011c, pp. 8–11). The Chariton River is believed to effectively limit the potential for downstream migration of Topeka shiners given its higher densities of predator fishes (predominantly channel catfish) and minimal cover for small fish (MDC 2011c, p. 2).

Initial reintroduction sites for Topeka shiners will be in at least six ponds and all suitable stream reaches on MDC's Union Ridge CA. Subsequent monitoring of Topeka shiners will be restricted to the middle-Spring Creek sub-basin of the Spring Creek watershed. Within Spring Creek, this sub-basin is believed to offer the greatest potential to establish a self-sustaining population of Topeka shiners, and the smaller size of the middle-Spring Creek sub-basin also allows for regional Fisheries staff to reasonably complete monitoring efforts and evaluate success (MDC 2011c, p. 2).

Likelihood of Population Establishment and Survival

A subset of the ponds on Dunn Ranch, Pawnee Prairie, and Union Ridge CA determined to be suitable for the propagation of Topeka shiners will be treated with rotenone to remove potential predators prior to stocking (MDC 2011a, p. 2; MDC 20011b, p. 2; MDC 2011c, p. 3). Spawning gravel will also be added to littoral areas (0–1 meter deep). The success of reproduction in these ponds will be compared to ponds with bare soil bottom types that did not receive spawning gravel. Reducing predators and increasing spawning success should increase the likelihood of population establishment and survival.

Addressing Causes of Extirpation

The Topeka shiner has declined throughout its range for apparently numerous reasons. Reductions and disappearance of many Topeka shiner populations appear to be related to a combination of physical degradation of habitat and species interactions (MDC 2010, p. 11). Physical degradation of habitat is primarily related to patterns of land use including destruction, modification and fragmentation of habitat resulting from siltation, reduced water quality, tributary impoundment, and reduction of water levels (MDC 2010, p. 11). These habitat alterations may have been caused by intensive agriculture, urbanization, and highway construction (Minckley and Cross 1959, p. 216; Cross and Moss 1987, p. 165; Pflieger 1997, p. 199; Tabor 1992, pp. 38–39; MDC 2010, p. 11).

Bayless *et al.* (2003, p. 47) found that generally good water quality and habitat prevailed in the Moniteau Creek watershed, where the largest remaining populations of the Topeka shiner persist. No overall pattern relating Topeka shiner distribution and water quality was detectable; however, the Topeka shiner has never been observed in sub-basins of the watershed characterized by chronically extreme levels of urbanization, nutrient additions, and turbidity. Construction of watershed impoundments that limit sediment-flushing flows and provide a source of piscivorous predators, low-water crossings that obstruct animal and particle passage, and reduction of groundwater levels resulting from irrigation may have also contributed to the Topeka shiner's decline (Layher 1993, pp. 15–17; Tabor 1992, p. 39; Pflieger 1997, p. 155; Schrank *et al.* 2001, p. 419; Mammoliti 2002, p. 2; MDC 2010, p. 11).

Species interactions, such as predation and competition with other fishes, have likely played a role in the decline of the Topeka shiner in portions of its range. Stocking piscivores such as largemouth bass (*Micropterus salmoides*), crappie (*Pomoxis* spp.), and bluegill (*Lepomis macrochirus*) in ponds constructed in watersheds containing the Topeka shiner has probably accelerated the decline of the Topeka shiner through predation (MDC 2010, p. 11). Additionally, Pflieger (1997, p. 155) suggested that the introduced blackstripe topminnow (*Fundulus notatus*) and western mosquitofish (*Gambusia affinis*) likely compete with the Topeka shiner for food.

The Topeka shiner in Missouri has declined in the presence of largemouth bass, bluegill, and blackstripe topminnow, and this decline coincided with the decline of other fishes considered generally tolerant of poor physical and chemical conditions but intolerant of species interactions (Winston 2002, p. 249). Schrank *et al.* (2001, p. 413) noted that sites where the Topeka shiner had been extirpated in Kansas had a greater number of small impoundments in the watershed, longer pools, higher catch per effort of largemouth bass, and higher species diversity by trophic guild and richness compared to sites where the Topeka shiner was extant. Dahle and Hatch (2002, p. 3) determined the threat of predation of Topeka shiners by piscivorous fish (including largemouth bass) in southwest Minnesota streams was low due to the rarity of such predators.

Other unidentified factors may be responsible for the loss of the Topeka shiner from some streams and for localized undocumented fish kills. Further study is needed to determine the relative significance of habitat degradation versus species interactions as causes for the decline of the Topeka shiner. Koehle (2006, p. 26) found Topeka shiners to be tolerant of high water temperatures and low dissolved oxygen levels. Additional experimental

studies would be particularly useful to elucidate the physiological tolerances and behavior of the Topeka shiner in addition to comparisons of the hydrology, water chemistry, physical habitat, land use practices, and fish communities in areas where the species persists and where it has been extirpated (MDC 2010, p. 11).

All reintroduction sites are on public land, and are properly managed to prevent potential causes of extirpation (Pflieger 1997, pp. 154–155). In addition to implementing management techniques that will sustain headwater prairie stream habitat, efforts have been undertaken to eliminate potential predation by nonnative piscivorous fish (MDC 2010, pp. 26–31). Ponds on Dunn Ranch, Pawnee Prairie NA, and Union Ridge CA determined to be suitable for the propagation of Topeka shiners were treated with rotenone during the summer of 2011, to remove potential piscivorous predators prior to stocking (MDC 2011a, p. 2; MDC 20011b, p. 2; MDC 2011c, p. 3). Ponds will be regularly monitored to assess success of removal operations. Additional treatments will be provided if needed to ensure ponds are free of fish predators before any stocking takes place. Such actions should improve the probability of success of reintroduction efforts. Ponds on reintroduction areas used in propagation efforts will likely duplicate off-channel habitats occupied by Topeka shiners elsewhere within the species' range (MDC 2010, p. 26). The use of such ponds in propagation efforts will serve as refugia for Topeka shiners during extreme drought and may provide excellent sources of intra-basin transfers to promote population expansion (MDC 2011a, p. 2).

Release Procedures

Initial donor populations of Topeka shiner will originate from extant sites in Sugar Creek, Harrison County, and from fish propagated at MDC's Lost Valley Hatchery in Warsaw, Missouri. NEP reintroductions will include pond and stream habitats within the Little Creek, Big Muddy Creek, and Spring Creek watersheds. Captive-reared fish will be stocked into stream and pond habitats by MDC fisheries personnel. Cooperators include MDC, TNC, and the Service. Topeka shiners that are subsequently and successfully reared in ponds on Dunn Ranch, Pawnee Prairie NA, and the Union Ridge CA will be placed into stream habitats following established stocking protocols described in the reintroduction plans (MDC 2011a, 2011b, and 2011c). We do not anticipate that the removal of fish would have a deleterious effect on the genetics of the species, because only a sample of Topeka shiners in Sugar Creek will be collected.

Parameters To Assess the Success of the Reintroduction

Sampling Sites

Information on fish species composition and simple stream habitat conditions will be collected at sites throughout the NEP portion of the Little Creek, Big Muddy Creek, and Spring Creek watersheds prior to initial stockings. Twenty-five sites with 3 pools per site that are at least 200 meters (m) in length will be selected using a Generalized Random Tessellation Stratified (GRTS) design (*http://www.epa.gov/nheerl/arm/designing/design_intro.htm*).

Fish Sampling

Each pool will be sampled once with a 15-foot (ft) (4.57-m) × 6-ft (1.83-m), one-eighth-inch (0.32-centimeters (cm)) mesh drag seine to collect fish. To be more effective in narrow pools (width less than 6 m), the net may be shortened to facilitate sampling. Two nets hauled side-by-side will be used for wide pools between 10 and 20 m in width. All species present in a catch will be identified and categorized by apparent relative abundance: ''Low'' is defined by low approximate number (fewer than 10 fish) and low approximate percent of total catch (less than 5 percent); ''medium'' (10–50 fish, less than 25 percent); or ''high'' (greater than 50 fish, greater than 25 percent). Presence of juvenile Topeka shiners (less than 40 millimeters (mm) total length) will be noted as an indication of spawning at each site.

Habitat—Habitat variables to be measured in the field in each pool include: Global Positioning System (GPS) coordinates at the downstream edge of the pool using Universal Transverse Mercator North American Datum of 1983 (UTM NAD83); water temperature and conductivity (measured with a handheld meter, indicates ion concentration and relative degree of water replenishment); pool length and representative pool width (measured with rangefinder or meter stick), and maximum depth (via meter stick or similar); visual assessments of the relative amount of silt or organic debris covering the stream bottom (1 = almost none, 2 = thin layer, 3 = thick layer) and overall substrate type/coarseness (1 = clay or bedrock, 2 = small rock less than 128 mm diameter/cobble, 3 = large rock greater than 128 mm); degree of pool isolation (1 = intermittent or isolated, 2 = continuous or interconnected by flowing water habitat); and overall level of seining difficulty (1 = not difficult, 2 = difficult). Visual assessments and level of difficulty will be based on consensus of the sampling crew. An adaptive monitoring approach will be used to assess the NEP population numbers and habitat variables; adjustments will be made, if necessary, after assessing the monitoring techniques.

Initial Stocking

Ponds—Topeka shiners will be stocked at a rate of 500 fish per acre in designated ponds at reintroduction sites on public properties. All fish will come from either Sugar Creek (Harrison County) or those propagated at MDC's Lost Valley Hatchery. Additionally, orangespotted sunfish will be stocked in each pond at a rate of 25 to 50 fish per acre. The source of the sunfish will preferably be from Sugar Creek broodstock propagated at MDC's Lost Valley Hatchery or another local basin within the greater Grand River watershed. Green sunfish (also from local basins) may be substituted to meet desired stocking rates for sunfish if adequate numbers of orangespotted sunfish cannot be reasonably collected.

Stream Reaches—Topeka shiners will also be stocked in suitable stream reaches within the NEP area on public properties at a minimum rate of 5,000 fish per mile. Based on monitoring data, a need for stocking sunfish would be determined for selected stream reaches on public properties. Sources of Topeka shiners and sunfish will be the same as described above for the ponds.

Supplemental Stocking

Supplemental stockings of Topeka shiners or sunfish will be conducted for ponds or selected stream reaches on public properties within the greater NEP portion of Little, Big Muddy, and Spring creeks, if necessary. Criteria for such stockings will be determined by MDC fisheries personnel as needed and necessary to meet reintroduction goals outlined in MDC's 10-year Action Plan for the Topeka Shiner (MDC 2010, pp. 29–35). Supplemental stocking rates in ponds and streams will occur at the same rates described for initial stockings above.

Effects on Extant Populations

Individual Topeka shiners used to establish an experimental population will be supplied by MDC's Lost Valley Hatchery in Warsaw, MO, propagated under the Federal Fish and Wildlife Permit #TE71730A. The donor population for the Lost Valley Hatchery is from sites in Sugar Creek, Harrison

County, Missouri. Sugar Creek's Topeka shiner population is closest to reintroduction sites. Typical gear used for small cyprinids will be used to collect Topeka shiners, and they will be held at Lost Valley Hatchery until they could be stocked into pond and stream habitats at identified reintroduction sites.

The 10-year Strategic Plan for the Recovery of the Topeka Shiner in Missouri (MDC 2010, pp. 29–35) and reintroduction plans for Topeka shiner in the Little Creek, Big Muddy Creek, and Spring Creek watersheds (MDC 2011a, pp. 1–9; MDC 2011b, pp. 1–11; MDC 2011c, pp. 1–11) contain additional information on the release procedures and monitoring protocols (see **FOR FURTHER INFORMATION CONTACT** for copies of this document or go to *http://www.regulations.gov*).

Status of the NEP Population

We will ensure, through our section 10 permitting authority and the section 7 consultation process, that the use of Topeka shiner from the donor population within the Sugar Creek Basin for releases into Little Creek, Big Muddy Creek, and Spring Creek is not likely to jeopardize the continued existence of the species in the wild.

The special rule that accompanies this section 10(j) final rule is designed to broadly exempt, from the section 9 take prohibitions, any take of Topeka shiners that is incidental to otherwise lawful activities. We provide this exemption because we believe that such incidental take of members of the NEP associated with otherwise lawful activities is necessary and advisable for the conservation of the species.

This designation is justified because no adverse effects to extant wild or captive Topeka shiner populations will result from release of progeny from the Sugar Creek population. Transfer of disease or mixing of wild and reintroduced populations is not possible due to the distances involved between the donor population and reintroductions, the watersheds involved, and the physical barriers associated with the Little Creek and Big Muddy Creek watersheds. The majority of the reintroductions will occur on managed public land, and exemptions from prohibition for activities on private land are not likely to result in the loss of the NEP. Successful propagation of Topeka shiners in ponds at Dunn Ranch, Pawnee Prairie NA, and Union Ridge CA will provide a continual reservoir of Topeka shiners for supplemental stocking as needed. We expect that the reintroduction effort into Little, Big Muddy, and Spring creeks will result in the successful establishment of a self-sustaining population of Topeka shiners, which will contribute to the recovery of the species.

Extent to Which the Reintroduced Population May Be Affected by Land Management Within the NEP Watersheds

We conclude that the effects of Federal, State, or private actions and activities will not pose a substantial threat to Topeka shiner establishment and persistence in the Little Creek, Big Muddy Creek, and Spring Creek watersheds, because most activities currently occurring in the NEP area are compatible with Topeka shiner recovery, and there is no information to suggest that future activities will be incompatible with Topeka shiner recovery. Most of the area containing suitable release sites with high potential for Topeka shiner establishment is managed by MDC or TNC through the following mechanisms:

(1) There are existing best management practices (BMPs) for Topeka shiners that are followed by MDC and TNC; these practices include recommendations to maintain the water quality and headwater stream habitat (MDC 2000, p. 1).

(2) Reintroduction plans have been developed for all NEP sites (MDC 2011a, pp. 1–9; MDC 2011b, pp. 1–11; MDC 2011c, pp. 1–9).

(3) All reintroduction sites are managed to maintain Topeka shiner habitat (MDC 2011a, pp. 1–9; MDC 2011b, pp. 1–11; MDC 2011c, pp. 1–9).

Management issues related to the Topeka shiner NEP that have been considered include:

(a) *Incidental take:* The regulations implementing the Act define ''incidental take'' as take that is incidental to, and not the purpose of, carrying out an otherwise lawful activity (50 CFR 17.3), such as agricultural activities and other rural development, and other activities that are in accordance with Federal, Tribal, State, and local laws and regulations. Experimental population special rules contain specific prohibitions and exceptions regarding the taking of individual animals. By finalizing this 10(j) rule, incidental take of Topeka shiners within the NEP area will not be prohibited, provided that the take is unintentional and is in accordance with the special rule that is a part of this 10(j) rule. However, if we find evidence of intentional take of an individual Topeka shiner within the NEP that is not authorized by the special rule, we will refer the matter to the appropriate law enforcement entities for investigation.

(b) *Special handling:* In accordance with 50 CFR 17.21(c)(3), any employee or agent of the Service, any other Federal land management agency, or State personnel, designated for such purposes, may in the course of their official duties, handle individual Topeka shiners to aid sick or injured individual Topeka shiners, or to salvage dead individual Topeka shiners. Other persons will need to acquire permits from the Service for these activities.

(c) *Coordination with landowners and land managers:* The Service and our cooperators have identified issues and concerns associated with the Topeka shiner nonessential experimental population establishment. The NEP establishment was discussed with potentially affected State agencies, Tribal entities, local governments, businesses, and landowners within the reestablishment area. Affected State agencies, landowners, and land managers have indicated support for, or no opposition to, the NEP establishment, provided an NEP is designated and a special rule is promulgated to exempt incidental take from the prohibitions under section 9.

(d) *Public awareness and cooperation:* We will inform the general public of the importance of this reintroduction project in the overall recovery of the Topeka shiner in Missouri. After the publication of the proposed rule, we hosted two public meetings on February 19 and March 7, 2013, and informed the public of the purpose of the reintroduction, while emphasizing that the proposed NEP would not impact activities on private property. Additionally, MDC fisheries and private land biologists and the Service will highlight the same issues while working with private landowners on various landowner incentive programs or when providing technical assistance within the designated NEP watersheds. The designation of the NEP within Little Creek, Big Muddy Creek, and Spring Creek will provide greater flexibility in the management of the reintroduced Topeka shiner individuals. Affected State agencies, landowners, and land managers have either indicated support for, or no opposition to, the population establishment, provided the NEP is designated and a special rule is promulgated that does not prohibit incidental take.

(e) *Potential impacts to other federally listed species:* No other federally listed species are present within streams where the NEP is to be designated; therefore, Topeka shiner reintroductions

will not impact any other federally listed species.

(f) *Monitoring and evaluation:* Monitoring of changes in the distribution of Topeka shiners will be undertaken using occupancy modeling or a similar approach following procedural guidelines described in MacKenzie *et al.* (2006, pp. 183–224). Monitoring will be undertaken annually by personnel of the MDC, and results will be communicated to the public during future public meetings and through the use of outreach documents. If monitoring of released individuals indicates that reintroductions have been successful, additional release areas may be identified in a proposed rule in the **Federal Register** at a future date, following guidelines outlined in MDC's 10-year Strategic Plan for Recovery of the Topeka Shiner in Missouri (MDC 2010, p. 8). We project that it will be necessary to establish Topeka shiners in seven reintroduced populations to achieve recovery of the species in Missouri (MDC 2010, p. 26). However, this final rule covers only three of the seven reintroductions because the potential establishment of the remaining four populations will be contingent upon the success of initial propagation and release efforts. Reintroduction into the remaining sites will also follow the same protocols and guidelines conducted under this 10(j) rule, including the opportunity for the public to comment on such reintroductions in a possible future proposed rule.

Reintroduction Effectiveness Monitoring

Evaluations of our reintroduction goal and objectives will require monitoring for at least 10 years following initial stockings. Initial success of the reintroduction efforts will be evaluated through annual sampling of ponds and selected stream reaches on public properties during the first 3 years following initial stockings. Pond sampling will include fall seining with at least five, one-fourth arc pulls around the shore. Catch rates (fish per pull) will be recorded for shiners and sunfish, and a subsample of up to 100 Topeka shiners will be used to evaluate natural reproduction. Topeka shiners that are less than 40 mm (1.6 inches) in length will be considered juveniles. Minnow traps may also be used as a comparison to seining data. Stream sampling will follow the methods described earlier for ''Baseline Data'' sampling. After the first 3 years, ponds stocked with Topeka shiners will be monitored biennially for 10 years. Stream monitoring will be continued annually for 10 years to measure changes in the distribution of Topeka shiners, other fishes in the watershed, and trends in stream habitat conditions. Program Presence (Hines 2006) software to estimate patch occupancy and related parameters will be used to evaluate changes in occupancy and determine Topeka shiner use of Little Creek, Big Muddy, and Spring Creek watersheds.

Donor Population Monitoring

The MDC will continue to monitor the donor population of Topeka shiners in Sugar Creek. Monitoring of the donor population will follow guidelines established in the 10-Year Strategic Plan for the Recovery of Topeka Shiner in Missouri (MDC 2010, pp. 55–60); however, occupancy modeling will follow the protocols and principles in MacKenzie *et al.* (2006, pp. 183–224) to assess the status of the species. If monitoring detects a significant decline in donor populations, appropriate management action will be taken.

Monitoring Impacts to Other Listed Species

No other federally listed species occur within ponds or streams targeted for reintroductions; therefore, this monitoring will not impact any other federally listed species.

Summary of Comments and Responses

In the proposed rule published on January 23, 2013 (78 FR 4813), we requested that all interested parties submit written comments on the proposal by March 25, 2013. We also contacted appropriate Federal and State agencies, scientific experts and organizations, and other interested parties and invited them to comment on the proposal. Newspaper notices inviting general public comment were published in the Albany Ledger, the Bethany Republican Clipper, the Grant City Time's Tribune, the Kirksville Daily Express, the Milan Standard, and the Unionville Republican. We held a public meeting on February 19, 2013, in Eagleville, Missouri, and one on March 7, 2013, in Green City, Missouri.

During the public comment period on the proposed rule, we received a total of two comment letters addressing the proposed special rule. During the public meetings held on February 19, 2013, and March 7, 2013, representatives from The Nature Conservancy provided verbal comments on the proposed rule. All comments received supported the Service's proposed rule. All substantive information provided during the comment periods has either been incorporated directly into this final determination or addressed below.

Peer Review

In accordance with our peer review policy published on July 1, 1994 (59 FR 34270), we solicited expert opinion from two knowledgeable individuals with scientific expertise that included familiarity with Topeka shiner and its habitat, biological needs, and threats and from two individuals who are recognized fish biology, ecology and conservation experts. We received a response from one of the peer reviewers.

We reviewed all comments received from one peer reviewer for substantive issues and new information regarding the proposed 10(j) determination and reintroduction of Topeka shiner into portions of the species' historical range in Adair, Gentry, Harrison, Putnam, Sullivan, and Worth Counties, Missouri. The peer reviewer concurred with our methods and conclusions, and commented that determining the success of initial reintroductions before proposing the establishment of additional populations was wise conservation planning. He further concurred that the proposed reintroductions would further the conservation of Topeka shiner in Missouri.

Comments From States

Section 4(i) of the Act states, ''the Secretary shall submit to the State agency a written justification for his failure to adopt regulations consistent with the agency's comments or petition.'' The Missouri Department of Conservation completely supports the proposed action. They have been active partners with the Service in reintroduction efforts and much of the information, proposed locations, monitoring protocols, and propagation goals provided in the proposed rule are outlined in their 2010 State Action Plan (MDC 2010, pp. 7–60). The MDC State Action Plan includes guidelines for establishing seven populations within the species' historical range, including recommendations for release locations, stocking rates, site preparations at pond locations, and monitoring protocols for assessing the success of reintroduction efforts.

Public Comments

Comment: Two commenters wholeheartedly supported the proposed rule and noted that such reintroductions were necessary due to habitat loss.

Our Response: The Service concurs that reintroductions are now necessary due to habitat destruction that contributed to the species' decline.

Comment: One commenter questioned the need to designate reintroductions as

a nonessential experimental population and the necessity to exempt from prohibitions any actions that could result in the incidental take of Topeka shiners.

Our Response: The Service believes that the designation of a nonessential experimental population enables us to provide regulatory flexibility that will ensure continued cooperation with private landowners and further enhance the likelihood of success.

Comment: One commenter questioned whether the Service would continue to view reintroduced fish as a nonessential experimental population, whether stocked fish were unable to recover on their own, and whether new measures and resources would be devoted to enhance the conservation of such individuals.

Our Response: The designation as a nonessential experimental population is not contingent upon the ability of stocked fish to successfully reproduce in the wild. The Service's determination that reintroductions are not essential to the continued existence of the species in the wild would not change. Nonetheless, the decision to establish two additional reintroduced populations in an effort to meet MDC's goal of seven populations (two are extant) will depend on the success of the reintroduction sites outlined in this final rule. Whether reintroduced fish will subsequently reproduce on their own is yet to be determined. MDC and TNC are committed to managing sites targeted for reintroductions to the benefit of Topeka shiners to the maximum extent practical and logistically feasible.

Comment: One commenter asked if a failure of reintroductions would reflect on the species' ability to recover in the wild.

Our Response: The Service believes that reintroductions are essential to recovery of the species in Missouri. The success of reintroductions depends on a number of factors (*e.g.,* population levels, genetics, climatic variables) and the failure of such efforts would not necessarily be due to a species' ability to recover on its own without human assistance. In the event reintroduced fish do not reproduce, the Service, MDC, and TNC will use an adaptive management framework to determine what adjustments in reintroduction strategies would be needed to further recovery and improve the likelihood of success. Without reintroduction efforts, it is possible, however, that the species could become extirpated in the State. Consequently, we have determined that reintroductions will further the conservation of the species.

Findings

We followed the procedures required by the Act, NEPA, and the Administrative Procedure Act during this Federal rulemaking process. We solicited public comment on the proposed NEP designation. We have considered all comments received on the proposed rule before making this final determination. Based on the above information, and using the best scientific and commercial data available (in accordance with 50 CFR 17.81), we find that releasing Topeka shiners into portions of the species' historical range in Adair, Gentry, Harrison, Putnam, Sullivan, and Worth Counties, Missouri will further the conservation of the species, but that this population is not essential to the continued existence of the species in the wild.

Required Determinations

Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget will review all significant rules. The Office of Information and Regulatory Affairs has determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

Under the Regulatory Flexibility Act (as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996; 5 U.S.C. 601 *et seq.*), whenever a Federal agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare, and make available for public comment, a regulatory flexibility analysis that describes the effect of the rule on small entities (small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of an agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities. We are certifying that this rule will not have a significant economic effect on a substantial number of small entities. The following discussion explains our rationale.

The area affected in this final includes the release areas in northern Missouri and adjacent areas into which Topeka shiners may disperse, which over time could include significant portions of the NEP. Because of the regulatory flexibility for Federal agency actions provided by the NEP designation and because of the exemption for incidental take in this special rule, we do not expect this rule to have significant effects on any activities within Federal, State, or private lands within the NEP. In regard to section 7(a)(2), the population is treated as proposed for listing and Federal action agencies are not required to consult on their activities. Section 7(a)(4) requires Federal agencies to confer (rather than consult) with the Service on actions that are likely to jeopardize the continued existence of a proposed species. Results of a conference are advisory in nature and do not restrict agencies from carrying out, funding, or authorizing activities. In addition, section 7(a)(1) requires Federal agencies to use their authorities to carry out programs to further the conservation of listed species, which will apply on any lands within the NEP area. As a result, and in accordance with these regulations, some modifications to proposed Federal actions within the NEP area may occur to benefit the Topeka shiner, but we do not expect projects would be halted or substantially modified as a result of these regulations.

This final rule will broadly authorize incidental take of the Topeka shiner within the NEP area, when such take is incidental to an otherwise lawful activity, such as agricultural activities, animal husbandry, grazing, ranching, road and utility maintenance and construction, other rural development, camping, hiking, fishing, hunting, vehicle use of roads and highways, and other activities in the NEP area that are in accordance with Federal, Tribal,

State, and local laws and regulations. Intentional take for purposes other than authorized data collection or recovery purposes will not be permitted. Intentional take for research or recovery purposes will require a section 10(a)(1)(A) recovery permit under the Act.

The principal activities on private property near the designated NEP area are agriculture, rural development, and recreation. We conclude the presence of the Topeka shiner will not affect the use of lands for these purposes because there will be no new or additional economic or regulatory restrictions imposed upon States, non-Federal entities, or members of the public due to the presence of the Topeka shiner, and Federal agencies will have to comply only with sections 7(a)(1) and 7(a)(4) of the Act in these areas. Therefore, this rulemaking is not expected to have any significant adverse impacts to activities on private lands within the NEP area.

Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*):

(1) This final rule will not ''significantly or uniquely'' affect small governments. We have determined and certify under the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.,* that this rulemaking will not impose a cost of $100 million or more in any given year on local or State governments or private entities. A Small Government Agency Plan is not required. As explained above, small governments will not be affected because the NEP designation will not place additional requirements on any city, county, or other local municipalities.

(2) This rule will not produce a Federal mandate of $100 million or greater in any year (i.e., it is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act). This NEP designation for the Topeka shiner will not impose any additional management or protection requirements on the States or other entities.

Takings (E.O. 12630)

In accordance with Executive Order 12630, this final rule does not have significant takings implications. This rule will allow for the take of reintroduced Topeka shiners when such take is incidental to an otherwise legal activity, such as agricultural activities and other rural development, camping, hiking, hunting, vehicle use of roads and highways, and other activities that are in accordance with Federal, State, Tribal, and local laws and regulations. Therefore, we do not believe that establishment of this NEP will conflict with existing or proposed human activities or hinder public use of the Little Creek, Big Muddy Creek, and Spring Creek or its tributaries.

A takings implication assessment is not required because this rule: (1) Will not effectively compel a property owner to suffer a physical invasion of property and (2) will not deny all economically beneficial or productive use of the land or aquatic resources. This rule will substantially advance a legitimate government interest (conservation and recovery of a listed species) and will not present a barrier to all reasonable and expected beneficial use of private property.

Federalism (E.O. 13132)

In accordance with Executive Order 13132, we have considered whether this final rule has significant Federalism effects and have determined that a federalism impact summary statement is not required. This rule will not have substantial direct effects on the States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. In keeping with Department of the Interior policy, we requested information from and coordinated development of this final rule with the affected resource agencies in Missouri. Achieving the recovery goals for this species in Missouri will contribute to its eventual delisting and its return to State management. No intrusion on State policy or administration is expected; roles or responsibilities of Federal or State governments will not change; and fiscal capacity will not be substantially directly affected. The special rule will operate to maintain the existing relationship between the State and the Federal Government and is being undertaken in coordination with the State of Missouri. Therefore, this rule does not have significant Federalism effects or implications to warrant the preparation of a federalism impact summary statement under the provisions of Executive Order 13132.

Civil Justice Reform (E.O. 12988)

In accordance with Executive Order 12988, the Office of the Solicitor has determined that this rule will not unduly burden the judicial system and will meet the requirements of sections (3)(a) and (3)(b)(2) of the Order.

Paperwork Reduction Act

Office of Management and Budget (OMB) regulations at 5 CFR 1320, which implement provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), require that Federal agencies obtain approval from OMB before collecting information from the public. This final rule does not contain any new information collections that require approval. OMB has approved our collection of information associated with reporting the taking of experimental populations (50 CFR 17.84) and assigned control number 1018–0095, which expires on May 31, 2014. We may not collect or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number.

National Environmental Policy Act

The reintroduction of native species into suitable habitat within their historical or established range is categorically excluded from NEPA documentation requirements consistent with 40 CFR 1508.4, 43 CFR 46.205, 43 CFR 46.210, and 516 DM 8.5 B(6).

Government-to-Government Relationship With Tribes

In accordance with the presidential memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), Executive Order 13175 (65 FR 67249), and the Department of Interior Manual Chapter 512 DM 2, we have considered possible effects on federally recognized Indian tribes and have determined that there are no tribal lands within the areas targeted for reintroductions. Therefore, no tribal lands will be affected by this rule.

Energy Supply, Distribution or Use (E.O. 13211)

Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. This rule is not expected to significantly affect energy supplies, distribution, and use. Because this action is not a significant energy action, no Statement of Energy Effects is required.

References Cited

A complete list of all references cited in this final rule is available at *http://www.regulations.gov* at Docket No. FWS–R3–ES–2012–0087 or upon request from the Columbia, Missouri, Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Authors

The primary authors of this final rule are staff members of the Service's Columbia, Missouri, Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Regulation Promulgation

Accordingly, we hereby amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

■ 1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 1531–1544; 4201–4245; unless otherwise noted.

■ 2. Amend § 17.11(h) by revising the entry for ''Shiner, Topeka'' under ''FISHES'' in the List of Endangered and Threatened Wildlife to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
*	*	*	*	*	*		*
FISHES							
*	*	*	*	*	*		*
Shiner, Topeka	*Notropis topeka=tristis.*	U.S.A. (IA, KS, MN, MO, NE, SD).	Entire, except where listed as an experimental population.	E	654	17.95(e)	NA
Shiner, Topeka	*Notropis topeka=tristis.*	U.S.A. (IA, KS, MN, MO, NE, SD).	U.S.A. (MO—specified portions of Little Creek, Big Muddy Creek, and Spring Creek watersheds in Adair, Gentry, Harrison, Putnam, Sullivan, and Worth Counties; see 17.84(n)(1)(i)).	XN	.....	NA	17.84(n)
*	*	*	*	*	*		*

■ 3. Amend § 17.84 by adding paragraph (n) to read as follows:

§ 17.84 Special rules—vertebrates.

* * * * *

(n) Topeka shiner (*Notropis topeka*).

(1) *Where is the Topeka shiner designated as a nonessential experimental population (NEP)?* (i) The NEP area for the Topeka shiner is within the species' historical range and includes those waters within the Missouri counties of Adair, Gentry, Harrison, Putnam, Sullivan, and Worth identified below in paragraph (n)(5) of this section.

(ii) The Topeka shiner is not known to currently exist in Adair, Gentry, Putnam, Sullivan, and Worth Counties in Missouri, or in those portions of Harrison County, Missouri, where the NEP is being designated. Based on its habitat requirements and potential predation by other fish predators, we do not expect this species to become established outside this NEP area, although there is a remote chance it may.

(iii) We will not change the NEP designations to ''essential experimental,'' ''threatened,'' or ''endangered'' within the NEP area without a public rulemaking. Additionally, we will not designate critical habitat for this NEP, as provided by 16 U.S.C. 1539(j)(2)(C)(ii).

(2) *What activities are not allowed in the NEP area?* (i) Except as expressly allowed in paragraph (n)(3) of this section, all the prohibitions of § 17.21 apply to the Topeka shiner NEP.

(ii) Any manner of take not described under paragraph (n)(3) of this section is prohibited in the NEP area.

(iii) You may not possess, sell, deliver, carry, transport, ship, import, or export by any means, Topeka shiners, or parts thereof, that are taken or possessed in violation of paragraph (n)(3) of this section or in violation of the applicable State fish and wildlife laws or regulations or the Act.

(iv) You may not attempt to commit, solicit another to commit, or cause to be committed any offense defined in paragraph (n)(2)(iii) of this section.

(3) *What take is allowed in the NEP area?* Take of this species that is incidental to an otherwise legal activity, such as agriculture, forestry and wildlife management, land development, recreation, and other activities, is allowed provided that the activity is not in violation of any applicable State fish and wildlife laws or regulations.

(4) *How will the effectiveness of these reintroductions be monitored?* We will monitor reintroduction efforts to assess changes in distribution within each watershed by sampling ponds and streams where releases occur for 10 years after reintroduction. Streams will be sampled annually, and ponds will be sampled annually for the first 3 years and biennially thereafter.

(5) *Note:* Map of the NEP areas [Big Muddy Creek (Gentry, Harrison, and Worth Counties), Little Creek (Harrison County), and Spring Creek (Adair, Putnam, and Sullivan Counties)] for the Topeka shiner, follows:

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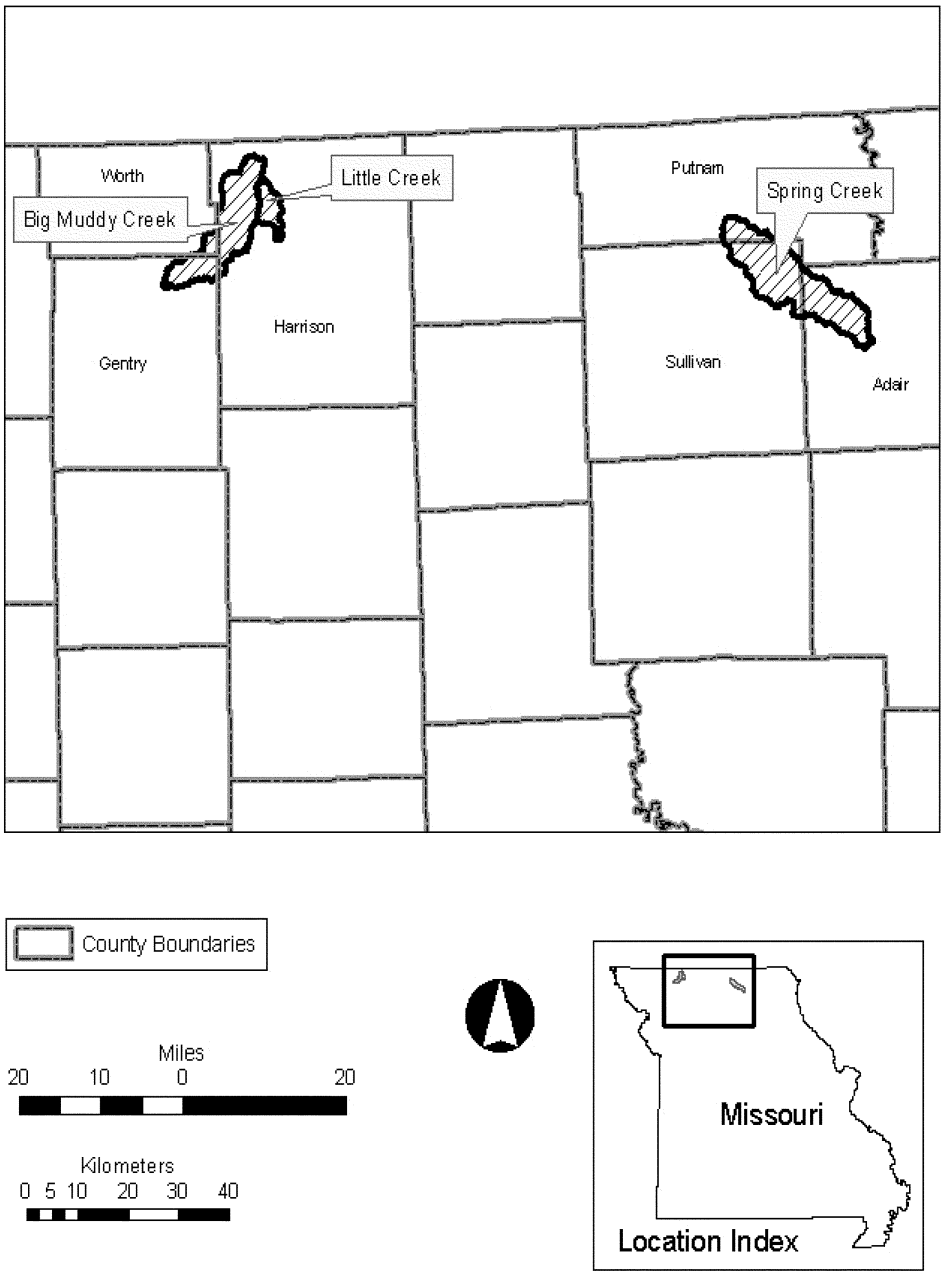
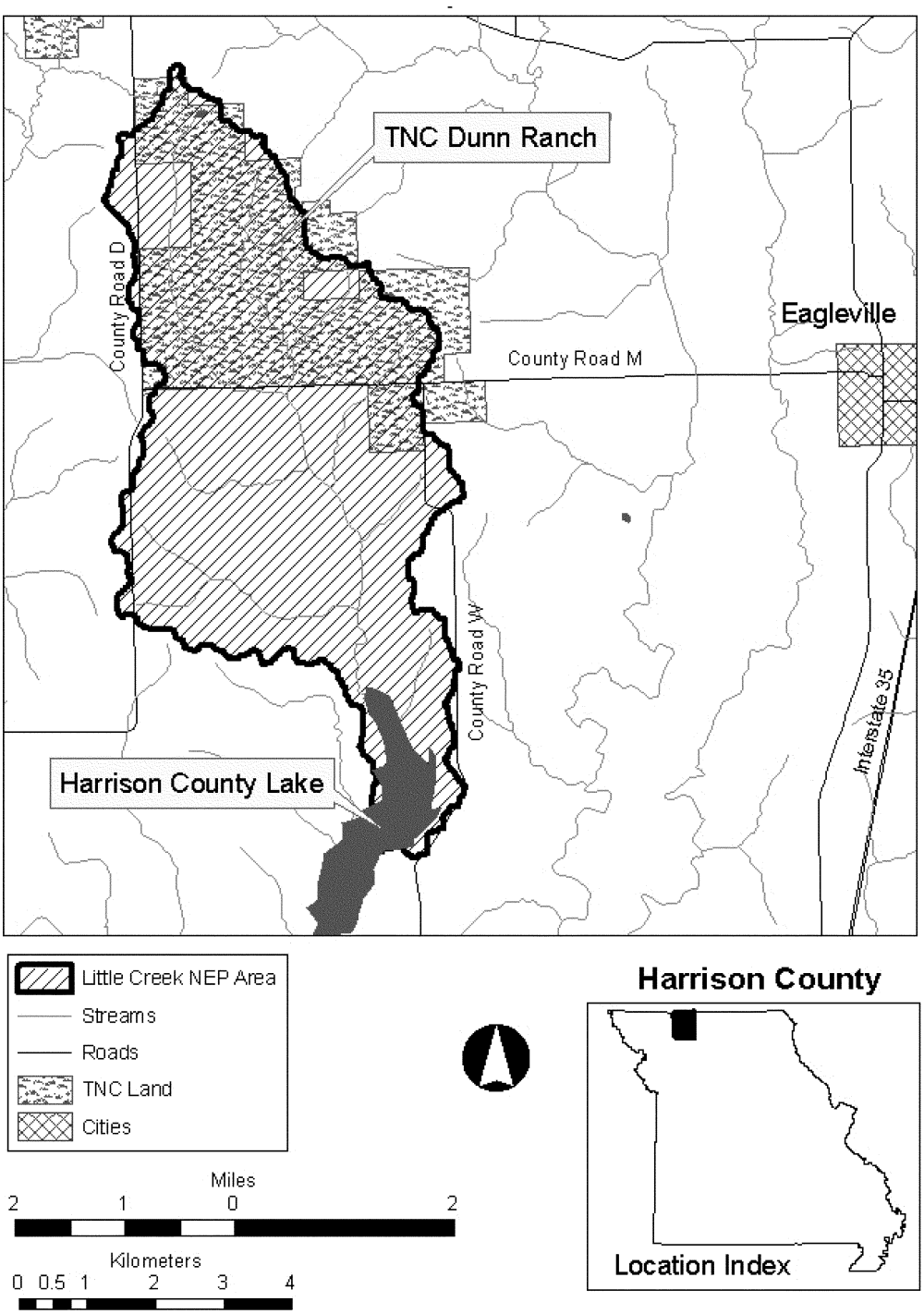
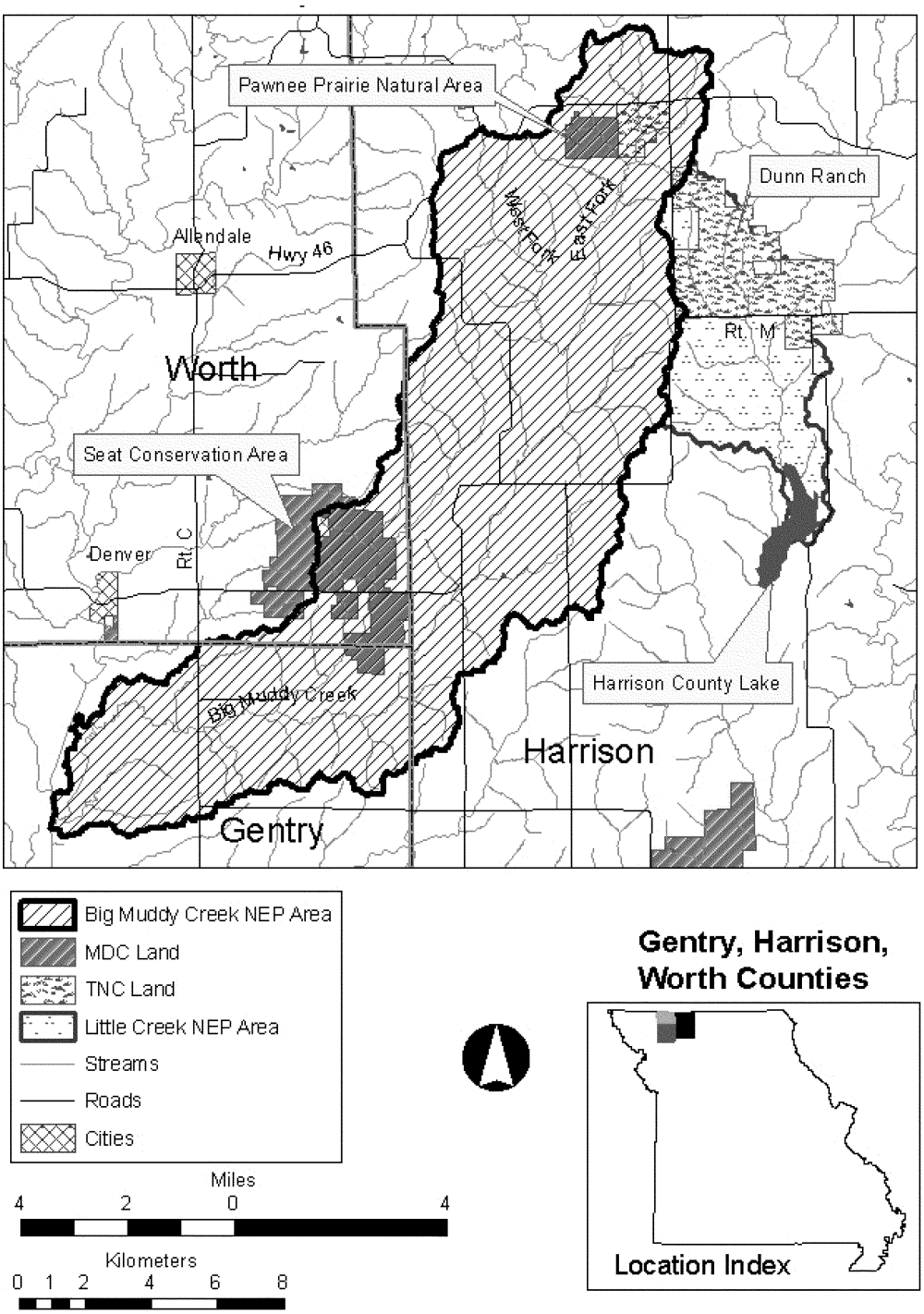


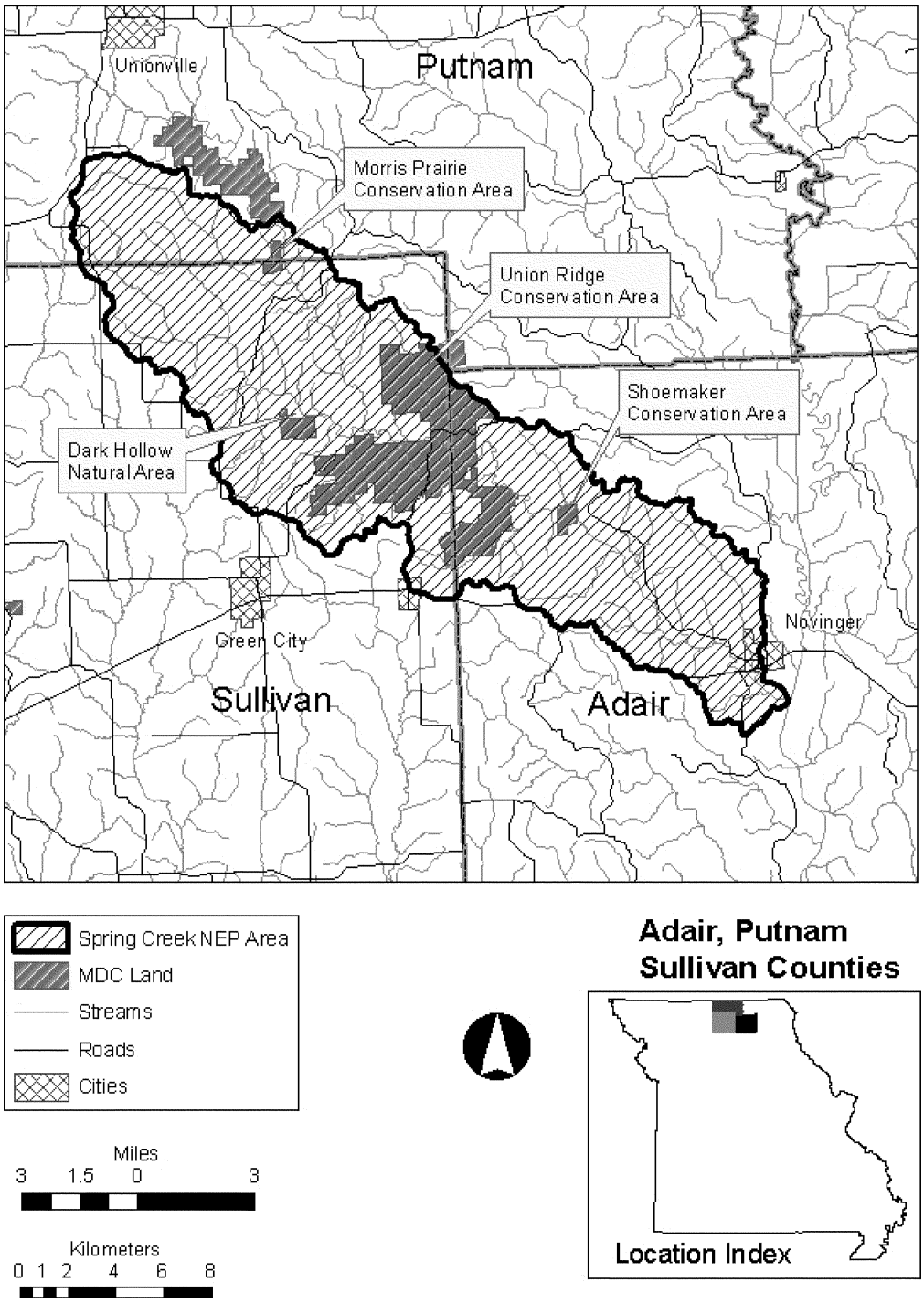
(6) *Note:* Map of the NEP area for the Topeka shiner in Little Creek watershed, Harrison County, follows:



(7) *Note:* Map of the NEP area for the Topeka shiner in Big Muddy Creek watershed, Gentry, Harrison, and Worth Counties, follows:



(8) *Note:* Map of the NEP area for the Topeka shiner in Spring Creek watershed, Adair, Putnam, and Sullivan Counties, follows:



* * * * *

Dated: July 9, 2013.

Michael J. Bean,

Principal Deputy Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2013–17087 Filed 7–16–13; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 121018563–3148–02]

RIN 0648–XC757

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Bering Sea and Aleutian Islands Management Area

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific ocean perch in the Western Aleutian district (WAI) of the Bering Sea and Aleutian Islands management area (BSAI) by vessels participating in the BSAI trawl limited access fishery. This action is necessary to prevent exceeding the 2013 total allowable catch (TAC) of Pacific ocean perch in this area allocated to vessels participating in the BSAI trawl limited access fishery.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), July 12, 2013, through 2400 hrs, A.l.t., December 31, 2013.

FOR FURTHER INFORMATION CONTACT: Steve Whitney, 907–586–7269.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2013 TAC of Pacific ocean perch, in the WAI, allocated to vessels participating in the BSAI trawl limited access fishery was established as a directed fishing allowance of 182 metric tons by the final 2013 and 2014 harvest specifications for groundfish in the BSAI (78 FR 13813, March 1, 2013).

In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific ocean perch in the WAI by vessels participating in the BSAI trawl limited access fishery.

After the effective dates of this closure, the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

This action responds to the best available information recently obtained from the fishery. The Acting Assistant Administrator for Fisheries, NOAA, (AA) finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such a requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of the Pacific ocean perch directed fishery in the WAI for vessels participating in the BSAI trawl limited access fishery. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of July 10, 2013. The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: July 12, 2013.

Galen Tromble,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2013–17153 Filed 7–12–13; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 78, No. 137
Wednesday, July 17, 2013

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF ENERGY

10 CFR Part 430

[Docket No. EERE–2011–BT–TP–0061]

RIN 1904–AC65

Test Procedures for Showerheads, Faucets, Water Closets, Urinals, and Commercial Prerinse Spray Valves: Public Meeting

AGENCY: Office of Energy Efficiency and Renewable Energy, U.S. Department of Energy.

ACTION: Notice of public meeting and request for public comment.

SUMMARY: The U.S. Department of Energy (DOE) will hold a public meeting to discuss methodologies and gather comments on DOE's proposed test method for verifying the amount of force required to remove the flow control insert of showerheads for purposes of amending DOE test procedures. In addition, DOE encourages written comments on these subjects.

DATES: DOE will hold a public meeting on Tuesday, July 30, 2013, from 1 p.m. to 3 p.m. in Washington, DC. DOE will accept comments, data, and information regarding the subjects of this notice before or after the public meeting, but no later than August 9, 2013.

ADDRESSES: The public meeting will be held at the U.S. Department of Energy, Forrestal Building, Room 8E–089, 1000 Independence Avenue SW., Washington, DC 20585–0121. To attend, please notify Ms. Brenda Edwards at (202) 586–2945. Please note that foreign nationals visiting DOE Headquarters are subject to advance security screening procedures. Any foreign national wishing to participate in the public meeting should advise DOE as soon as possible by contacting Ms. Brenda Edwards at (202) 586–2945 to initiate the necessary procedures.

Interested parties may submit comments, identified by docket number EERE–2011–BT–TP–0061 or Regulation Identifier Number (RIN) 1904–AC65, by any of the following methods:

1. *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
2. *Email: PlumbingPrds-2011-TP-0061@ee.doe.gov.* Include the docket number and/or RIN in the subject line of the message.
3. *Mail:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Mailstop EE–2J, 1000 Independence Avenue SW., Washington, DC 20585–0121. If possible, please submit all items on a CD. It is not necessary to include printed copies.
4. *Hand Delivery/Courier:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, 950 L'Enfant Plaza SW., Suite 600, Washington, DC 20024. Telephone: (202) 586–2945. If possible, please submit all items on a CD. It is not necessary to include printed copies.

Docket: The docket is available for review at *www.regulations.gov.* All documents in the docket are listed in the *www.regulations.gov* index. However, not all documents in the index may be publicly available, such as information that is exempt from public disclosure. A link to the docket Web page can be found at *www.regulations.gov.* The *www.regulations.gov* Web page contains a link to the docket for this notice, along with simple instructions on how to access all documents in the docket, including public comments.

FOR FURTHER INFORMATION CONTACT:
Mr. Lucas Adin, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies, EE–2J, 1000 Independence Avenue SW., Washington, DC 20585–0121. Phone: (202) 287–1317. Email: *Lucas.Adin@ee.doe.gov.*
Ms. Jennifer Tiedeman, U.S. Department of Energy, Office of the General Counsel, GC–71, 1000 Independence Avenue SW., Washington, DC 20585–0121. Phone: (202) 287–6111. Email: *Jennifer.Tiedeman@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: Title III of the Energy Policy and Conservation Act of 1975 (42 U.S.C. 6291, et seq.; ''EPCA'') sets forth a variety of provisions designed to improve energy efficiency. (All references to EPCA refer to the statute as amended through the American Energy Manufacturing Technical Corrections Act (AEMTCA), Pub. L. 112–210 (Dec. 18, 2012)). Part B of title III (42 U.S.C. 6291–6309, as codified) establishes the Energy Conservation Program for Consumer Products Other Than Automobiles, which includes the showerheads that are the subjects of today's notice.[1]

Under EPCA, the program consists of four activities: (1) Testing; (2) labeling; and (3) Federal energy and water conservation standards; and (4) certification, and enforcement procedures. The testing requirements consist of test procedures that manufacturers of covered products must use as the basis for (1) certifying to DOE that their products comply with applicable water conservation standards adopted pursuant to EPCA and (2) making representations about the water consumption of those products. Similarly, DOE must use these test procedures to determine whether the products comply with any relevant standards promulgated under EPCA.

EPCA states that the procedures for testing and measuring the water use of faucets and showerheads shall be American Society of Mechanical Engineers (ASME) Standard A112.18.1M–1989, ''Plumbing Fixture Fittings.''[2] EPCA further specifies that if ASME revises these requirements, the Secretary of Energy (Secretary) shall adopt such revisions if they conform to the basic statutory requirements for test procedures. (42 U.S.C. 6293(b)(7)) DOE last amended test procedures for these products in a final rule published in March 1998 (March 1998 final rule), which incorporated by reference ASME Standard A112.18.1M–1996, ''Plumbing Fixture Fittings,'' for showerheads and faucets.[3] 63 FR 13308 (March 18, 1998). The current test procedures for faucets and showerheads, as adopted in the March 1998 final rule, are located in appendix S to subpart B of 10 CFR part 430, ''Uniform Test Method for Measuring the Water Consumption of Faucets and Showerheads.''

On May 30, 2012, DOE issued a notice of proposed rulemaking, proposing to

[1] For editorial reasons, upon codification in the U.S. Code, Part B was re-designated Part A.

[2] EPCA also mandates that the test procedure for water closets and urinals shall be ASME Standard A112.19.6–1990, ''Hydraulic Requirements for Water Closets and Urinals.''

[3] DOE also incorporated by reference ASME Standard A112.19.6–1995, ''Hydraulic Performance Requirements for Water Closets and Urinals,'' for water closets and urinals in this final rule.

amend, among other items, the test procedures for showerheads by incorporating by reference, with the exception of certain provisions regarding rounding of measured values, ASME Standard A112.18.1–2011. 77 FR 31742, 31744. DOE requested comments and information on prospective methods for verifying compliance with the requirement in section 42 U.S.C. 6295(j)(1) of EPCA that a showerhead must be manufactured such that a pushing or pulling force of 8 lbf or more is required to remove the insert.[4] DOE also requested comments and information on showerhead designs that may complicate verification of the force requirement or, alternatively, make verification unnecessary. 77 FR at 31746–31748.

Several comments submitted in response to the NOPR recommended that DOE not adopt a standardized test method (Docket No. EERE–2011–BT–TP–0061, Moen, No. 4 at p. 2; PMI, No. 8 at p. 2; Kohler, No. 9 at p. 3; Kohler, Public Meeting Transcript, No. 11 at p. 47; ICC, Public Meeting Transcript, No. 11 at pp. 48–49; Sloan Valve, No. 12 at p. 2); on the other hand, some comments suggested that such a test would be valuable (NRDC/ASAP, No. 14 at p. 5). DOE did not receive any comments indicating that a standardized method currently exists, however. DOE subsequently conducted testing on a selection of showerhead models to evaluate flow insert designs and developed a pull-force verification test. In an April 8, 2013 supplemental notice of proposed rulemaking (SNOPR), DOE proposed to adopt this test method, which would not be required for certifying compliance with the DOE standards at 10 CFR 430.32(p), but rather, would only be used by DOE for verification or enforcement testing. 78 FR at 20835–20837.

In response to the SNOPR, DOE received several comments opposing adoption of a standardized test, generally indicating that the proposed pull-style test represented a duplication of the requirements in the ASME Standard A112.18.1 test method or that it would conflict with other established industry test methods (NSF, No. 22 at p. 2, PMI, No. 23 at p. 3, Kohler, No. 27 at p. 2, Chicago Faucet, No. 28 at p. 2, and Moen, No. 30 at p. 2). However, DOE notes that A112.18.1 states only that the flow-restricting insert in a showerhead must be mechanically retained at the point of manufacture such that a pulling or pushing force of 8 lbf or more is required to remove the insert, but does not specify a method for verifying that this requirement has been met for a given model. DOE did not receive any comments describing a test method currently in use by manufacturers, test laboratories, or others for verifying compliance with this requirement.

To ensure that all aspects of DOE's proposal for a standardized method of verifying compliance with the requirements for the flow-restricting insert have been considered and to consider whether DOE's proposed method should be adopted in the absence of an industry test method, DOE has scheduled a public meeting to receive additional information, comments, and proposals from manufacturers, testing organizations, and other interested stakeholders. DOE encourages stakeholders to bring examples of products subject to these requirements that may aid in discussions of prospective test methodologies or that illustrate points raised in comments. DOE does not intend to discuss any other aspect of the plumbing products test procedure proposals as part of this meeting.

DOE will conduct the public meeting in an informal, facilitated, conference style. There shall be no discussion of proprietary information, costs or prices, market shares, or other commercial matters regulated by U.S. antitrust laws. A court reporter will record the minutes of the meeting, after which a transcript will be available for purchase from the court reporter and placed on the DOE Web site.

Anyone who wishes to participate in the public meeting, receive meeting materials, or be added to the DOE mailing list to receive future notices and information about showerheads should contact Ms. Brenda Edwards at (202) 586–2945.

Issued in Washington, DC, on July 11, 2013.

Kathleen B. Hogan,

Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.

[FR Doc. 2013–17157 Filed 7–16–13; 8:45 am]

BILLING CODE 6450–01–P

[4] This requirement is also found in 10 CFR 430.32(p) and section 4.11.1 of ASME A112.18.1–2011.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0546; Directorate Identifier 2013–NM–050–AD]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain The Boeing Company Model 727 airplanes. This proposed AD is intended to complete certain mandated programs intended to support the airplane reaching its limit of validity (LOV) of the engineering data that support the established structural maintenance program. For certain airplanes, this proposed AD would require modification of the web of the horizontal stabilizer center section rear spar. For the other airplanes, this proposed AD would require an inspection for cracks in the web, and repair or modification as applicable. We are proposing this AD to prevent cracking at the upper fastener holes in the riveted web in the horizontal stabilizer center section rear spar, which could result in failure of the spar forging and lead to horizontal stabilizer separation and loss of control of the airplane.

DATES: We must receive comments on this proposed AD by September 3, 2013.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://*

www.myboeingfleet.com. You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Chandraduth Ramdoss, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office (ACO), 3960 Paramount Boulevard, Lakewood, California 90712–4137; phone: 562–627–5239; fax: 562–627–5210; email: *chandraduth.ramdoss@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2013–0546; Directorate Identifier 2013–NM–050–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

As described in FAA Advisory Circular 120-104 (*http://www.faa.gov/documentLibrary/media/Advisory_Circular/120–104.pdf*), several programs have been developed to support initiatives that will ensure the continued airworthiness of aging airplane structure. The last element of those initiatives is the requirement to establish a limit of validity (LOV) of the engineering data that support the structural maintenance program under 14 CFR 26.21. This proposed AD is the result of an assessment of the previously established programs by Boeing during the process of establishing the LOV for Model 727 airplanes. The actions specified in this proposed AD are necessary to complete certain programs to ensure the continued airworthiness of aging airplane structure and to support an airplane reaching its LOV.

Fatigue tests on Model 727 airplanes indicated that cracking can occur at the upper fastener holes in the riveted web in the horizontal stabilizer center section rear spar, because under-gauge material was used for the web. Such cracking could result in damage to the rear spar forging and lead to horizontal stabilizer separation and loss of control of the airplane.

Relevant Service Information

We reviewed Boeing Service Bulletin 55–46, dated April 8, 1970. For information on the procedures and compliance times, see this service information at *http://www.regulations.gov* by searching for Docket No. FAA–2013–0546.

FAA's Determination

We are proposing this AD because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Proposed AD Requirements

This proposed AD would require accomplishing the actions specified in the service information identified previously, except as discussed under ''Differences Between the Proposed AD and the Service Information.''

Differences Between the Proposed AD and the Service Information

The effectivity of Boeing Service Bulletin 55–46, dated April 8, 1970, includes four groups of Model 727 airplanes. We have determined that only airplanes in Group III and Group IV are still in service. The applicability of this proposed AD therefore is limited to Group III and Group IV airplanes.

Boeing Service Bulletin 55–46, dated April 8, 1970, specifies a compliance time for the modification at a ''major overhaul nearest to 20,000 hours.'' But a Structures Task Group (STG) recommended a threshold of 60,000 total flight cycles for the modification. This proposed AD specifies that threshold, with a grace period of 24 months or 2,500 flight cycles. We have coordinated this compliance time with Boeing.

Boeing Service Bulletin 55–46, dated April 8, 1970, specifies to contact the manufacturer for instructions on how to repair certain conditions, but this proposed AD would require repairing those conditions in one of the following ways:

- In accordance with a method that we approve; or
- Using data that meet the certification basis of the airplane, and that have been approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) whom we have authorized to make those findings.

Costs of Compliance

We estimate that this proposed AD affects 106 airplanes of U.S. registry. We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Modification	32 work-hours × $85 per hour = $2,720	$7,154	$9,874	$1,036,770

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: ''General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures

the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

(1) Is not a ''significant regulatory action'' under Executive Order 12866,

(2) Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),

(3) Will not affect intrastate aviation in Alaska, and

(4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

The Boeing Company: Docket No. FAA–2013–0546; Directorate Identifier 2013–NM–050–AD.

(a) Comments Due Date

We must receive comments by September 3, 2013.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 727 airplanes, certificated in any category, identified as Group III and Group IV in Boeing Service Bulletin 55–46, dated April 8, 1970.

(d) Subject

Joint Aircraft System Component (JASC)/Air Transport Association (ATA) of America Code 55, Stabilizers.

(e) Unsafe Condition

This AD is intended to complete certain mandated programs intended to support the airplane reaching its limit of validity (LOV) of the engineering data that support the established structural maintenance program. We are issuing this AD to prevent cracking at the upper fastener holes in the riveted web in the horizontal stabilizer center section rear spar, which could lead to horizontal stabilizer separation and loss of control of the airplane.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Group III Airplanes: Inspection

For airplanes identified as Group III in Boeing Service Bulletin 55–46, dated April 8, 1970: At the later of the times specified in paragraphs (g)(1) and (g)(2) of this AD, do an eddy-current inspection for cracks in the web, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 55–46, dated April 8, 1970.

(1) Before the accumulation of 60,000 total flight cycles.

(2) Within 24 months or 2,500 flight cycles after the effective date of this AD, whichever occurs first.

(h) Group III Airplanes: Corrective Actions

For airplanes identified as Group III in Boeing Service Bulletin 55–46, dated April 8, 1970: After the inspection required by paragraph (g) of this AD, do the applicable actions specified in paragraph (h)(1) or (h)(2) of this AD.

(1) If no crack is found, before further flight, modify the web of the horizontal stabilizer center section rear spar, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 55–46, dated April 8, 1970.

(2) If any crack is found, repair before further flight using a method approved in accordance with the procedures specified in paragraph (j) of this AD.

(i) Group IV Airplanes: Modification

For airplanes identified as Group IV in Boeing Service Bulletin 55–46, dated April 8, 1970: At the later of the times specified in paragraphs (i)(1) and (i)(2) of this AD, modify the web of the horizontal stabilizer center section rear spar, in accordance with the Accomplishment Instructions of Boeing 727 Service Bulletin 55–46, dated April 8, 1970.

(1) Before the accumulation of 60,000 total flight cycles.

(2) Within 24 months or 2,500 flight cycles after the effective date of this AD, whichever occurs first.

(j) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in the Related Information section of this AD. Information may be emailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.*

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(3) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD if it is approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) that has been authorized by the Manager, Seattle ACO, to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(k) Related Information

(1) For more information about this AD, contact Chandraduth Ramdoss, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office (ACO), 3960 Paramount Boulevard, Lakewood, California 90712–4137; phone: 562–627–5239; fax: 562–627–5210; email: *chandraduth.ramdoss@faa.gov.*

(2) For information about AMOCs, contact Berhane Alazar, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, Washington 98057–3356; phone: 425–917–6577; fax: 425–917–6590; email: *berhane.alazar@faa.gov.*

(3) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on July 5, 2013.

Jeffrey E. Duven,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–17138 Filed 7–16–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0610; Directorate Identifier 2013–CE–017–AD]

RIN 2120–AA64

Airworthiness Directives; Pilatus Aircraft Ltd. Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for Pilatus Aircraft Ltd. Model PC–12/47E airplanes. This proposed AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as common grounding of both the pilot Primary Flight Display (PFD) and the Electronic Standby Instrument System (ESIS). If the common ground fails both navigations systems could fail simultaneously, which could result in loss of control. We are issuing this proposed AD to require actions to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by September 3, 2013.

ADDRESSES: You may send comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Pilatus Aircraft Ltd., Customer Service Manager, CH–6371 STANS, Switzerland; telephone: +41 (0) 41 619 65 01; fax: +41 (0) 41 619 65 76; Internet: *http://www.pilatus-aircraft.com/#32.* You may review copies of the referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the MCAI, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; fax: (816) 329–4090; email: *doug.rudolph@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2013–0610; Directorate Identifier 2013–CE–017–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

We will post all comments we receive, without change, to *http://regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA AD No.: 2013–0114, dated May 28, 2013 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> During a design review of the electrical supply of navigation equipment installed on certain PC 12/47E aeroplanes, common grounding of the pilot Primary Flight Display (PFD) and the Electronic Standby Instrument System (ESIS) was identified.
>
> This condition, if not corrected, could lead, in case of failure of PFD and ESIS common ground, to simultaneous loss of more than one pilot flight information display and inhibition of flight parameter presentation, possibly resulting in reduced ability to control the aeroplane.
>
> To address this potentially unsafe condition, Pilatus Aircraft Ltd. introduced a modification in production to relocate the ESIS ground connection. This modification is available for affected in-service aeroplanes through Pilatus Aircraft Ltd Service Bulletin (SB) No 34–038.
>
> For the reasons described above, this AD requires relocation of the ESIS ground connection.

You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

Pilatus Aircraft Ltd. has issued Pilatus Service Bulletin No. 34–038, dated March 26, 2013. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of the Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with this State of Design Authority, they have notified us of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all information and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

Costs of Compliance

We estimate that this proposed AD will affect 230 products of U.S. registry. We also estimate that it would take about 5 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Required parts would cost about $40 per product.

Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $106,950, or $465 per product.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. ''Subtitle VII: Aviation Programs,'' describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in ''Subtitle VII,

Part A, Subpart III, Section 44701: General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

(1) Is not a ''significant regulatory action'' under Executive Order 12866,

(2) Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),

(3) Will not affect intrastate aviation in Alaska, and

(4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new AD:

Pilatus Aircraft Ltd.: Docket No. FAA–2013–0610; Directorate Identifier 2013–CE–017–AD.

(a) Comments Due Date

We must receive comments by September 3, 2013.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Pilatus Aircraft Ltd. Model PC–12/47E airplanes, serial numbers 545, and 1001 through 1450, certificated in any category.

(d) Subject

Air Transport Association of America (ATA) Code 34: Navigation.

(e) Reason

This proposed AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as common grounding of both the pilot Primary Flight Display (PFD) and the Electronic Standby Instrument System (ESIS). If the common ground fails both navigations systems could fail simultaneously, which could result in loss of control. We are issuing this proposed AD to require actions to address the unsafe condition on these products.

(f) Actions and Compliance

Unless already done, within 3 months after the effective date of this AD, modify the ESIS return wire ground connections following the accomplishment instructions in Pilatus Aircraft Ltd. PC–12 Service Bulletin No. 34–038, dated March 26, 2013.

(g) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; fax: (816) 329–4090; email:. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(h) Related Information

Refer to MCAI European Aviation Safety Agency (EASA) AD No.: 2013–0114, dated May 28, 2013, for related information, which can be found in the AD docket on the Internet at *http://www.regulations.gov.* For service information related to this AD, contact Pilatus Aircraft LTD., Customer Service Manager, CH–6371 STANS, Switzerland; telephone: +41 (0) 41 619 65 01; fax: +41 (0) 41 619 65 76; Internet: *http://www.pilatus-aircraft.com/#32.* You may review copies of the referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Issued in Kansas City, Missouri, on July 11, 2013.

John Colomy,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–17142 Filed 7–16–13; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0611; Directorate Identifier 2013–CE–019–AD]

RIN 2120–AA64

Airworthiness Directives; Beechcraft Corporation Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to supersede airworthiness directive (AD) 2011–27–51 that applies to certain Beechcraft Corporation Models 1900, 1900C, and 1900D airplanes. AD 2011–27–51 currently requires inspecting the elevator bob-weight and attaching linkage for correct installation and for damage or deformation to the weight and/or weight bracket with corrective action as necessary. Since we issued AD 2011–27–51, a secondary elevator bob-weight stop bolt has been designed. This proposed AD would require installation of the secondary elevator bob-weight stop bolt. The elevator bob-weight (stabilizer weight) traveling past its stop bolt may allow the attaching linkage to move over-center and lead to reduced nose down elevator control, which could result in loss of control. We are proposing this AD to correct the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by September 3, 2013.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room

W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

• *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this AD, contact Beechcraft Corporation at P.O. Box 85, Wichita, Kansas 67201–0085; telephone: (800) 429–5372 or (316) 676–3140; Internet: *http://www.beechcraft.com.* Beechcraft Corporation publishes service information for the Beechcraft Corporation airplanes affected by this AD action. You may review copies of the referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Don Ristow, Aerospace Engineer, Wichita ACO, FAA, 1801 Airport Road, Room 100, Wichita, Kansas 67209; telephone: (316) 946–4120; fax: (316) 946–4107; email: *donald.ristow@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2013–0611; Directorate Identifier 2013–CE–019–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

On January 6, 2012, we issued AD 2011–27–51, Amendment 39–16915 (77 FR 2439, January 18, 2012), for certain Hawker Beechcraft Corporation Models 1900, 1900C, and 1900D airplanes. AD 2011–27–51 requires inspecting the elevator bob-weight and attaching linkage for correct installation and for damage or deformation to the weight and/or weight bracket with corrective action as necessary. AD 2011–27–51 resulted from reports of the elevator bob-weight (stabilizer weight) traveling past its stop bolt and allowing the attaching linkage to move over-center, which could lead to reduced nose down elevator control. We issued AD 2011–27–51 to detect and correct conditions that could result in reduced nose down elevator control and loss of control.

Actions Since AD 2011–27–51 Was Issued

Since we issued AD 2011–27–51 (77 FR 2439, January 18, 2012), Beechcraft Corporation designed a secondary elevator bob-weight stop bolt to reduce the possibility of the bob-weight from traveling past the stop bolt.

Relevant Service Information

We reviewed Hawker Beechcraft Corporation Safety Communiqué No. 321, dated December 2011, and Beechcraft Corporation Mandatory Service Bulletin No. SB 27–4119, dated June 2013. The service information describes procedures for inspecting the elevator bob-weight and attaching linkage for correct installation and for damage or deformation to the weight and/or weight bracket. The service information also describes procedures for installing the secondary elevator bob-weight stop bolt, Kit 114–5060.

FAA's Determination

We are proposing this AD because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Proposed AD Requirements

This proposed AD would retain all of the requirements of AD 2011–27–51 (77 FR 2439, January 18, 2012). This proposed AD would also add the requirement to install the secondary elevator bob-weight stop bolt, Kit 114–5060.

Costs of Compliance

We estimate that this proposed AD affects 165 airplanes of U.S. registry.

We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection of the elevator bob-weight and attaching linkage.	1 work-hour × $85 per hour = $85	Not applicable	$85	$14,025
Installation of the secondary elevator bob-weight stop bolt, Kit 114-5060.	4 work-hours × $85 per hour = $340	$2,740	3,080	508,200

The on-condition costs for any corrective action that may be necessary based on the above inspection would vary from airplane to airplane, and we have no way of determining that cost.

The cost of the inspection is a retained cost from AD 2011–27–51 (77 FR 2439, January 18, 2012) and does not add a burden over what was already imposed.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, ''General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation

is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We have determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that the proposed regulation:

(1) Is not a ''significant regulatory action'' under Executive Order 12866,

(2) Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),

(3) Will not affect intrastate aviation in Alaska, and

(4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing airworthiness directive (AD) 2011–27–51, Amendment 39–16915 (77 FR 2439, January 18, 2012), and adding the following new AD:

Beechcraft Corporation: Docket No. FAA–2013–0611; Directorate Identifier 2013–CE–019–AD.

(a) Comments Due Date

The FAA must receive comments on this AD action by September 3, 2013.

(b) Affected ADs

This AD supersedes AD 2011–27–51, Amendment 39–16915 (77 FR 2439, January 18, 2012).

(c) Applicability

This AD applies to the following Beechcraft Corporation airplanes, certificated in any category:

Models	Serial Nos.
(1) 1900	UA–3.
(2) 1900C	UB–1 through UB–74 and UC–1 through UC–174.
(3) 1900C (Military)	UD–1 through UD–6.
(4) 1900D	UE–1 through UE–439.

(d) Subject

Joint Aircraft System Component (JASC)/Air Transport Association (ATA) of America Code 27, Flight Controls.

(e) Unsafe Condition

This AD was prompted by reports of the elevator bob-weight (stabilizer weight) traveling past its stop bolt and allowing the attaching linkage to move over-center, which could lead to reduced nose down elevator control. Also, Beechcraft Corporation designed a secondary elevator bob-weight stop bolt to reduce the possibility of the bob-weight from traveling past the stop bolt. We are issuing this AD to prevent the elevator bob-weight (stabilizer weight) traveling past its stop bolt and allowing the attaching linkage to move over-center and lead to reduced nose down elevator control, which could result in loss of control.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done. Paragraph (g) of this AD only applies to airplanes where the inspection required by AD 2011–27–51 (77 FR 2439, January 18, 2012) has not been done.

(g) Retained Inspections

Within the next 10 hours time-in-service (TIS) after January 18, 2012 (the effective date of AD 2011–27–51 (77 FR 2439, January 18, 2012)), inspect the elevator bob-weight installation for the following conditions specified in paragraphs (g)(1) through (g)(4) in this AD. Use Hawker Beechcraft Corporation Safety Communiqué No. 321, dated December 2011 (which is incorporated by reference in AD 2011–27–51).

(1) *The correct positioning of the elevator control column link assembly, (part number (P/N) 101–524112–1 (1900/1900C) or P/N 101–524112–5 (1900D)).* With the elevator control column in the full nose down position (control column forward), the link must form an angle between the link attachment point at the control column and the bell crank pivot point as shown in the Hawker Beechcraft Corporation Safety Communiqué photo labeled ''Correct Link Orientation.'' The link should be trailing aft from the control column assembly.

Note 1 to paragraphs (g)(1) and (g)(2) of this AD: The term ''nose down'' corresponds to the airplane nose down, down elevator, and control column forward position as used in this AD and Hawker Beechcraft Corporation Safety Communiqué No. 321, dated December 2011.

(2) *The clearance of the bob-weight stop bolt.* With the elevator control column in the full nose down position (control column forward), the stabilizer weight stop bolt must have positive clearance with the face of the stabilizer weight.

(3) *The condition of the bob-weight and alignment with the stop bolt.* Inspect for evidence of scraping along either side of the weight by the stop bolt. With side pressure applied by hand to the stabilizer weight, no part of the stop bolt should protrude beyond the face of the stabilizer weight on either edge.

(4) *The condition of the bob-weight support bracket.* Inspect for evidence of damage or deformation by contact with the weight assembly.

(h) Installation of Kit 114–5060

Within the next 600 hours TIS after the effective date of this AD, install the secondary elevator bob-weight stop bolt, Kit 114–5060, following Beechcraft Corporation Mandatory Service Bulletin No. SB 27–4119, dated June 2013.

(i) Corrective Actions

If any discrepancies are found during the inspection required in paragraph (g) of this AD, including all subparagraphs, and during the installation required in paragraph (h) of this AD, before further flight, contact Beechcraft Corporation Technical Support. If a deviation from FAA-approved type design is required, then request an alternative method of compliance (AMOC) as described in paragraph (j) of this AD. You may contact Beechcraft Technical Support by telephone at (800) 429–5372 or (316) 676–3140.

(j) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Wichita Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in the Related Information section of this AD.

(2) Before using any approved AMOC, notify your appropriate principal inspector,

or lacking a principal inspector, the manager of the local flight standards district office/ certificate holding district office.

(3) AMOCs approved for AD 2011–27–51 (77 FR 2439, January 18, 2012) are approved as AMOCs for the corresponding provisions of this AD.

(k) Related Information

(1) For more information about this AD, contact Don Ristow, Aerospace Engineer, Wichita ACO, FAA, 1801 Airport Road, Room 100, Wichita, Kansas 67209; telephone: (316) 946–4120; fax: (316) 946–4107; email: *donald.ristow@faa.gov.*

(2) For service information identified in this AD, contact Beechcraft Corporation at P.O. Box 85, Wichita, Kansas 67201–0085; telephone: (800) 429–5372 or (316) 676–3140; Internet: *http://www.beechcraft.com.* Beechcraft Corporation publishes service information for the Beechcraft Corporation airplanes affected by this AD action. You may review copies of the referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Issued in Kansas City, Missouri, on July 11, 2013.

John Colomy,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–17146 Filed 7–16–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0544; Directorate Identifier 2012–NM–057–AD]

RIN 2120–AA64

Airworthiness Directives; the Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain the Boeing Company Model 777–200 series airplanes. This proposed AD was prompted by reports of smoke or flames in the passenger cabin of various transport category airplanes, related to the wiring for the passenger cabin in-flight entertainment (IFE) system, cabin lighting, and passenger seats. This proposed AD would require, for certain airplanes, doing an inspection of the electrical power control panel for a certain part number, and corrective action if necessary; and for certain other airplanes, installing a new electrical power control panel, and making changes to the wiring and certain electrical load management system (ELMS) panels. We are proposing this AD to ensure that the flightcrew is able to turn off electrical power to the IFE systems and other non-essential electrical systems through a switch in the flight compartment in the event of smoke or flames. In the event of smoke or flames in the airplane flight deck or passenger cabin, the flightcrew's inability to turn off electrical power to the IFE system and other non-essential electrical systems could result in the inability to control smoke or flames in the airplane flight deck or passenger cabin during a non-normal or emergency situation, and consequent loss of control of the airplane.

DATES: We must receive comments on this proposed AD by September 3, 2013.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–2112.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Ray Mei, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6467; fax: 425–917–6590; email: *raymont.mei@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2013–0544; Directorate Identifier 2012–NM–057–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

We have received reports of smoke or flames in the passenger cabin of various transport category airplanes (the Boeing Company Model MD–11 and DC–9 airplanes and Lockheed Martin Corporation/Lockheed Martin Aeronautics Company Model L–1011 series airplanes), related to the wiring for the passenger cabin IFE system, cabin lighting, and passenger seats. In response to these reports of smoke or flames in the passenger cabin of various models of transport category airplanes, we conducted a comprehensive IFE systems review.

The systems review determined that, in order to minimize the risk of smoke or flames in the passenger cabin, a switch is needed in the flight compartment to enable the flightcrew to turn off electrical power to the IFE system and other non-essential electrical systems. In the event of smoke or flames in the airplane flight deck or passenger cabin, the flightcrew's inability to turn off power to the IFE system and other non-essential electrical systems could result in the inability to control smoke or flames in the airplane flight deck or passenger cabin during a non-normal or emergency situation.

Other Relevant Rulemaking

• For certain the Boeing Company Model 777–200 and –300 series airplanes: We have issued an NPRM (78 FR 27310, May 10, 2013), which proposes to require installing wiring and changing certain electrical load management system (ELMS) panels and other actions to ensure that the flightcrew is able to turn off electrical power to the IFE systems and other non-essential electrical systems through a switch in the flight compartment in the event of smoke or flames.

• For the Boeing Company Model 757–200 and –300 series airplanes: AD 2007–16–12, Amendment 39–15151 (72 FR 44740, August 9, 2007), requires changes to existing wiring; installation of new circuit breakers, relays, relay connectors, and wiring; and replacement of certain circuit breakers with higher-rated circuit breakers. For certain airplanes, this AD also requires modification of wiring of the control module assembly for the electrical systems.

• For the Boeing Company Model 767–200, –300, and –400ER series airplanes: AD 2008–23–15, Amendment 39–15736 (73 FR 70267, November 20, 2008), requires installing new relay(s), circuit breakers as applicable, and wiring to allow the flightcrew to turn off electrical power to the IFE systems and certain circuit breakers through a utility bus switch, and doing other specified actions.

• For the Boeing Company Model 737–300, –400, –500, –600, –700, –700C, –800, and –900 series airplanes: AD 2009–12–06, Amendment 39–15929 (74 FR 27698, June 11, 2009), requires installing a new circuit breaker, relays, and wiring to allow the flightcrew to turn off electrical power to the IFE systems and other non-essential electrical systems through a switch in the flight compartment, and doing other specified actions.

• For the Boeing Company Model 747–400 and –400D series airplanes: AD 2009–15–12, Amendment 39–15975 (74 FR 35789, July 21, 2009), requires installing new relays to allow the flightcrew to turn off electrical power to the IFE system and other non-essential passenger cabin systems through the left and right utility bus switches, and other specified actions.

• For certain the Boeing Company Model 777–200 and –300 series airplanes: We have issued an NPRM (78 FR 27310, May 10, 2013), which proposes to require installing wiring and changing certain electrical load management system (ELMS) panels and other actions to ensure that the flightcrew is able to turn off electrical power to the IFE systems and other non-essential electrical systems through a switch in the flight compartment in the event of smoke or flames.

Relevant Service Information

We reviewed Boeing Service Bulletin 777–24–0077, Revision 4, dated October 17, 2012. For information on the procedures and compliance times, see this service information at *http://www.regulations.gov* by searching for Docket No. FAA–2013–0544.

Concurrent Service Information

Boeing Service Bulletin 777–24–0077, Revision 4, dated October 17, 2012, specifies concurrent or prior accomplishment of Boeing Service Bulletin 777–23–0176, Revision 2, dated October 26, 2006; and Boeing Service Bulletin 777–24–0087, Revision 2, dated August 16, 2007. For information on the procedures, see this service information at *http://www.regulations.gov* by searching for Docket No. FAA–2013–0544.

Other Service Information

BAE Systems Service Bulletin 233W3202–24–04, Revision 2, dated October 2, 2006, specifies identifying the electrical power control panels 233W3202–12 and 233W3202–13.

GE Aviation Service Bulletin 6000ELM–24–614, Revision 1, dated November 9, 2009, specifies putting the P210 power panel back to the correct standard.

GE Aviation Service Bulletin 6200ELM–24–616, Revision 1, dated March 5, 2010, specifies putting the P210 power panel back to the correct standard.

FAA's Determination

We are proposing this AD because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Proposed AD Requirements

This proposed AD would require accomplishing the actions specified in the service information described previously.

The phrase ''related investigative actions'' might be used in this proposed AD. ''Related investigative actions'' are follow-on actions that (1) are related to the primary action, and (2) are actions that further investigate the nature of any condition found. Related investigative actions in an AD could include, for example, inspections.

In addition, the phrase ''corrective actions'' might be used in this proposed AD. ''Corrective actions'' are actions that correct or address any condition found. Corrective actions in an AD could include, for example, repairs.

Costs of Compliance

We estimate that this proposed AD affects 49 airplanes of U.S. registry.

We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection/installation and changes.	Up to 28 work-hours × $85 per hour = $2,380.	$1,436	Up to $3,816	Up to $186,984.
Concurrent installation (Boeing Service Bulletin 777–23–0176, Revision 2, dated October 26, 2006).	2 work-hours × $85 per hour = $170.	$0	$170	$8,330.
Concurrent installation (Boeing Service Bulletin 777–24–0087, Revision 2, dated August 16, 2007).	3 work-hours × $85 per hour = $255.	$0	$255	$12,495.

We estimate the following costs to do any necessary change that would be required based on the results of the proposed inspection. We have no way of determining the number of aircraft that might need this replacement:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Change part number	1 work-hour × $85 per hour = $85	$0	$85

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: ''General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

(1) Is not a ''significant regulatory action'' under Executive Order 12866,

(2) Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),

(3) Will not affect intrastate aviation in Alaska, and

(4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

The Boeing Company: Docket No. FAA–2013–0544; Directorate Identifier 2012–NM–057–AD.

(a) Comments Due Date

We must receive comments by September 3, 2013.

(b) Affected ADs

None.

(c) Applicability

This AD applies to the Boeing Company Model 777–200 series airplanes, certificated in any category, as specified in Boeing Service Bulletin 777–24–0077, Revision 4, dated October 17, 2012.

(d) Subject

Joint Aircraft System Component (JASC)/Air Transport Association (ATA) of America Code 24, Electrical power.

(e) Unsafe Condition

This AD was prompted by reports of smoke or flames in the passenger cabin of various transport category airplanes related to the wiring for the passenger cabin in-flight entertainment (IFE) system, cabin lighting, and passenger seats. We are issuing this AD to ensure that the flightcrew is able to turn off electrical power to the IFE systems and other non-essential electrical systems through a switch in the flight compartment in the event of smoke or flames. In the event of smoke or flames in the airplane flight deck or passenger cabin, the flightcrew's inability to turn off electrical power to the IFE system and other non-essential electrical systems could result in the inability to control smoke or flames in the airplane flight deck or passenger cabin during a non-normal or emergency situation, and consequent loss of control of the airplane.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Installation

For Group 1, Configuration 1, airplanes, as identified in Boeing Service Bulletin 777–24–0077, Revision 4, dated October 17, 2012: Within 60 months after the effective date of this AD, install a new electrical power control panel and make changes to the wiring and certain electrical load management system (ELMS) panels, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 777–24–0077, Revision 4, dated October 17, 2012.

(h) Inspection

For Group 1, Configuration 2, airplanes, as identified in Boeing Service Bulletin 777–24–0077, Revision 4, dated October 17, 2012: Within 60 months after the effective date of this AD, inspect the electrical power control panel to determine the part number, and do all applicable corrective actions, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 777–24–0077, Revision 4, dated October 17, 2012. Do all applicable corrective actions before further flight.

(i) Concurrent Actions

(1) For Group 1, Configuration 1, airplanes, as identified in Boeing Service Bulletin 777–24–0077, Revision 4, dated October 17, 2012: Prior to or concurrently with accomplishing the requirements of paragraph (g) of this AD, install new operational software (OPS) in the cabin management system to change the operation of the cabin lighting system when the CABIN/UTILITY switch is installed, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 777–23–0176, Revision 2, dated October 26, 2006.

(2) For Group 1, Configuration 1, airplanes, as identified in Boeing Service Bulletin 777–24–0077, Revision 4, dated October 17, 2012: Concurrently with accomplishing the requirements of paragraph (g) of this AD, change the ELMS OPS and configuration database software (OPC) to decrease the number of ELMS P110, ELMS P210, and ELMS P310 panel engine indication and crew alerting system (EICAS) status messages, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 777–24–0087, Revision 2, dated August 16, 2007.

(j) Credit for Previous Actions

(1) This paragraph provides credit for the actions specified in paragraphs (g) and (h) this AD, if those actions were performed before the effective date of this AD using Boeing Service Bulletin 777–24–0077, dated

August 21, 2003; Revision 1, dated May 24, 2007; Revision 2, dated December 17, 2009; or Revision 3, dated December 6, 2011; which are not incorporated by reference in this AD; provided that, within 60 months after the effective date of this AD, the actions specified in paragraphs (j)(1)(i) and (j)(1)(ii) of this AD are done, and wire kit 280W5110–105W is used.

(i) Identify the electrical power control panels 233W3202–12 and 233W3202–13 in accordance with the Accomplishment Instructions of BAE Systems Service Bulletin 233W3202–24–04, Revision 2, dated October 2, 2006. The correct part number for the changed 233W3202–12 panel is 233W3202–18, and the correct part number for the changed 233W3202–13 panel is 233W3202–19.

(ii) Put back the P210 power panel to the correct standard, in accordance with the Accomplishment Instructions of GE Aviation Service Bulletin 6000ELM–24–614, Revision 1, dated November 9, 2009; or 6200ELM–24–616, Revision 1, dated March 5, 2010.

(2) This paragraph provides credit for the actions specified in paragraph (i)(1) of this AD, if those actions were performed before the effective date of this AD using Boeing Service Bulletin 777–23–0176, dated January 9, 2003, or Revision 1, dated March 11, 2004; provided that the actions specified in Boeing Service Bulletin 777–23–0141, dated June 14, 2001, were done prior to or concurrently with the actions specified in Boeing Service Bulletin 777–23–0176, dated January 9, 2003, or Revision 1, dated March 11, 2004, which are not incorporated by reference in this AD.

(3) This paragraph provides credit for the actions specified in paragraph (i)(2) of this AD, if those actions were performed before the effective date of this AD using Boeing Service Bulletin 777–24–0087, dated July 24, 2003, or Revision 1, dated December 18, 2003; provided that the actions specified in Boeing Service Bulletin 777–24–0087, dated July 24, 2003, or Revision 1, dated December 18, 2003, were done concurrently with the actions specified in Boeing Service Bulletin 777–24–0077, dated August 21, 2003; Revision 1, dated May 24, 2007; Revision 2, dated December 17, 2009; Revision 3, dated December 6, 2011; or Revision 4, dated October 17, 2012.

(k) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in the Related Information section of this AD. Information may be emailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.*

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(3) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD if it is approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) that has been authorized by the Manager, Seattle ACO to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane and the approval must specifically refer to this AD.

(l) Related Information

(1) For more information about this AD, contact Ray Mei, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6467; fax: 425–917–6590; email: *raymont.mei@faa.gov.*

(2) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on June 26, 2013.

Jeffrey E. Duven,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–17139 Filed 7–16–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2013–0196]

RIN 1625–AA00

Safety Zone; Old Mormon Slough, Stockton, CA

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a safety zone at: McCormick & Baxter superfund site, Old Mormon Slough, Stockton, CA. This safety zone will support ongoing efforts by the Environmental Protection Agency to decontaminate soil, groundwater, and sediment in Old Mormon Slough and the surrounding basin. This safety zone will restrict vessels from entering Old Mormon Slough and disturbing the existing sediment cap needed for site decontamination. This safety zone will help reduce human health and environmental risks associated with clean up efforts at McCormick & Baxter superfund site.

DATES: Comments and related material must be received by the Coast Guard on or before August 16, 2013.

Requests for public meetings must be received by the Coast Guard on or before July 31, 2013.

ADDRESSES: You may submit comments identified by docket number USCG–2013–0196 using any one of the following methods:

(1) *Federal eRulemaking Portal: http://www.regulations.gov.*

(2) *Fax:* 202–493–2251.

(3) *Mail or Delivery:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001. Deliveries accepted between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments. To avoid duplication, please use only one of these three methods.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Mr. Mike VanHouten, Waterways Management Division, U.S. Coast Guard; telephone 510–437–2968, email *Mike.L.VanHouten@uscg.mil* If you have questions on viewing or submitting material to the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

A. Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted, without change, to *http://www.regulations.gov* and will include any personal information you have provided.

1. Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG–2013–0196), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online, or by fax, mail, or hand delivery, but please use only one of these means. We recommend that you include your name and a mailing address, an email address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and type ''USCG–2013–0196'' in the ''Search'' box and click ''Search.'' Click on ''Submit a Comment'' on the line associated with this rulemaking.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8 1/2 by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period.

2. Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov*, type the docket number ''USCG–2013–0196'' in the ''search'' box and click ''Search.'' You may also view the docket by visiting the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

3. Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

4. Public Meeting

We do not now plan to hold a public meeting. But, you may submit a request for a public meeting to the docket using one of the methods specified under **ADDRESSES**. In your request, explain why you believe a public meeting would be beneficial. If we determine that a public meeting would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

B. Basis and Purpose

The Coast Guard is conducting this rulemaking under the authority of 33 U.S.C. 1231.

The purpose of this rule is to establish a safety zone in Old Mormon Slough to further efforts of the EPA to rehabilitate soil, sediment, and ground water from contaminates of the McCormick & Baxter Creosoting Company.

The McCormick & Baxter Creosoting Co. site is a 29-acre former wood-preserving facility located in an industrial area near the Port of Stockton. Old Mormon Slough, which is connected to the Stockton Deepwater Channel, borders the site on the north. Except for an 8-acre portion of the site owned by Southern Pacific Railroad Company, McCormick & Baxter owns the entire property. From 1942 to 1990, McCormick & Baxter treated utility poles and railroad ties with creosote, pentachlorophenol (PCP), and compounds of arsenic, chromium and copper. Wood treating chemicals were stored in tanks, and oily waste generated by the wood-treatment processes was stored in unlined ponds and concrete tanks on the site. The site came to the attention of state agencies in 1977 when a fish kill in New Mormon Slough and the Stockton Deepwater Channel was attributed to a release of PCP-contaminated storm water runoff from the McCormick & Baxter facility. In 1978, McCormick & Baxter constructed a perimeter dike to prevent storm water runoff from the site and installed two storm water collection ponds. The unlined oily waste ponds were closed in 1981. Sampling has shown that soils throughout the site and groundwater in the shallow aquifer beneath the site are contaminated with PCP, various constituents of creosote, dioxin (a contaminant in industrial-grade PCP) and metals. Soil contamination extends to greater than 40 feet below ground surface (BGS) in the central processing area of the site. Site investigations indicate that the shallow aquifer (0—200 ft BGS) is connected with the deeper aquifer, which is a drinking water source. However, no drinking water supplies are currently threatened by site-related contamination. Approximately 105,000 people live and work within 4 miles of the site. Sediment in Old Mormon Slough adjacent to the site is also contaminated, primarily with polycyclic aromatic hydrocarbons (PAHs) and dioxin. Site-related contaminants have been detected in fish caught in the vicinity of the site. People fish in the Stockton Channel and in Old Mormon Slough, although the McCormick & Baxter site is fenced and posted with warning signs.

Previous testing conducted by the EPA found soils and groundwater were contaminated with PCP, dioxin, PAHs, which are constituents of creosote, arsenic, chromium, and copper. In addition, non-aqueous phase liquids are widespread beneath the site. Sediment in Old Mormon Slough adjacent to the site is also contaminated, primarily with PAHs and dioxin. Individuals who accidentally ingest or come in direct contact with contaminated soil, sediment or groundwater could be at risk. Drinking water from the deep aquifer has not been affected by any contaminants from the McCormick & Baxter site. Oily seeps from the former oily waste ponds into Old Mormon Slough occurred in the past, although the seeps are now controlled. Site-related contaminants have been found in locally-caught fish, which may be consumed by nearby fishermen and their families. Sediment contamination also poses an environmental threat to aquatic organisms in the vicinity of the site.

The EPA is actively making efforts to control human exposure to contaminates via direct contact or ingestion in Old Mormon Slough as well as protect the decontamination process. The installation of storm water collection ponds and perimeter dike, site security improvements, chemical and sludge disposal, demolition and disposal of processing equipment and site structures, construction of a sheet piling wall along Old Mormon Slough, excavation and backfilling at the oily waste pond area, installation of a cap over the most heavily contaminated central portion of the site, and installation of a sand cap in Old Mormon Slough have reduced threats to public health and the environment from these areas of the site.

C. Discussion of Proposed Rule

The Coast Guard proposes to establish a safety zone in Old Mormon Slough to help effect the rehabilitation process at McCormick & Baxter superfund site. In effort to stop pleasure craft from disturbing the sediment cap in Old Mormon Slough the EPA established a log boom at the waterway entrance. However, tidal influences and heavy weather, at times, caused the log boom to shift and allow vessels unrestricted access. It is imperative for proper rehabilitation that control measures beyond physical are implemented to restrict waterside interaction and allow contaminates to dissipate.

D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes and executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of

Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. We anticipate that this rule will have minimal impact on the economy, will not interfere with other agencies, and will not raise any novel legal or policy issues. The safety zone created by this proposed rule affects a contaminated area of water that is currently being decontaminated. This area has been previously cordoned off by an EPA log boom to discourage transit in this area.

Thus, restrictions on vessel movement within this particular area are expected to be minimal. The Office of Management and Budget has not reviewed it under that Order.

2. Impact on Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The safety zone proposed by this rule will help prevent human health risks and allow for proper decontamination of the site. Its establishment will not affect any small entities. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. Comments submitted in response to this finding will be evaluated under the criteria in the ''Regulatory Information'' section of this preamble.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule will affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance; please consult Mr. Mike VanHouten via the **ADDRESSES** section of the rule. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

4. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

13. Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded under section 2.B.2, figure 2–1, paragraph (34)(g) of the Instruction. This rule involves the protection of the sediment cap and ongoing efforts by the EPA to reduce human health risks.

A preliminary environmental analysis checklist and a preliminary categorical

exclusion determination are available in the docket. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects in 33 CFR Part 165

Navigation (water) and Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

PART 165—SAFETY ZONES

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.1201 to read as follows:

§ 165.1201 Safety Zone; Old Mormon Slough, Stockton California.

(a) General. This safety zone is established to protect environmental rehabilitation efforts and prevent vessels from disturbing the sediment cap at Old Mormon Slough.

(b) Regulation. All vessels and personnel not associated with the EPA are prohibited from entering into and transiting Old Mormon Slough. Old Mormon Slough is defined as all waters Eastward from the connection of coordinates 37° 57′ 02.13″ North, 121° 18′ 49.55″ West and 37° 57′ 01.11″ North, 121° 18′ 46.75″ West (NAD 83).

(c) Each person in a safety zone who has notice of a lawful order or direction shall obey the order or direction of the COTP or District Commander issued to carry out the purposes of this subpart.

(d) The Coast Guard may be assisted in enforcing this rule by other Federal, state, or local agencies.

Dated: May 22, 2013.

K. L. Schultz,

Rear Admiral, U.S. Coast Guard, Commander, Eleventh Coast Guard District.

[FR Doc. 2013–17102 Filed 7–16–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2013–0523]

RIN 1625–AA00

Safety Zone; Cleveland Dragon Boat Festival and Head of the Cuyahoga, Cuyahoga River, Cleveland, OH

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a temporary safety zone on the Cuyahoga River, Cleveland, OH. This proposed rule is intended to restrict vessels from a portion of the Cuyahoga River during the Dragon Boat Festival and Head of the Cuyahoga boating events. The safety zone established by this proposed rule is necessary to protect the surrounding public, spectators, participants, and vessels from the hazards associated with rowing regattas.

DATES: Comments and related materials must be received by the Coast Guard on or before August 16, 2013.

ADDRESSES: You may submit comments identified by docket number USCG–2013–0523 using any one of the following methods:

(1) *Federal eRulemaking Portal: http://www.regulations.gov.*

(2) *Fax:* 202–493–2251.

(3) *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

(4) *Delivery:* at the same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays. The telephone number is 202–366–9329.

To avoid duplication, please use only one of these four methods. See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email LT Christopher Mercurio, Chief of Waterway Management, U.S. Coast Guard Sector Buffalo; telephone 716–843–9343, email *SectorBuffaloMarineSafety@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS Department of Homeland Security
FR **Federal Register**
NPRM Notice of Proposed Rulemaking
TFR Temporary Final Rule

A. Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided.

1. Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG–2013–0523), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online at *http://www.regulations.gov* or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online, it will be considered received by the Coast Guard when the comment is successfully transmitted. If you fax, hand deliver, or mail your comment, it will be considered received by the Coast Guard when the comment is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov,* type the docket number [USCG–2013–0523] in the ''SEARCH'' box and click ''SEARCH.'' Click on ''Submit a Comment'' on the line associated with this rulemaking.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

2. Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number (USCG–2013–0523) in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m.

and 5 p.m., Monday through Friday, except Federal holidays.

3. Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

4. Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one using one of the methods specified under **ADDRESSES**. Please explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

B. Regulatory History and Information

The Head of the Cuyahoga (HOTC) rowing regatta has occurred annually for over a decade and the Dragon Boat Festival for the last 7 years. In response to past years' events, the Coast Guard has established a temporary safety zone to protect the boating public. For example, in 2012, the Captain of the Port Buffalo published a temporary final rule (77 FR 54813) to ensure the safety of spectators and vessels during the rowing event. The safety zone proposed in this Notice of Proposed Rulemaking (NPRM) is identical in size, location, and effect as that established by the 2012 TFR.

C. Basis and Purpose

As mentioned in the ''Regulatory History and Information'' section, the HOTC is an annual rowing regatta that has taken place for over a decade. The HOTC takes place on the Cuyahoga River along a 4800 meter course and attracts numerous rowing clubs and programs from across the U.S. In 2013, the HOTC will occur between 8 a.m. and 4 p.m. on September 21, 2012.

In conjunction with the HOTC, the 7th Annual Cleveland Dragon Boat Festival will take place from Superior/Nautica Bend to just north of the Detroit Superior Viaduct Bridge. The Dragon Boat festival will feature three boat head to head races being held over the course of the day.

The Captain of the Port Buffalo has determined that the HOTC and the Cleveland Dragon Boat Festival rowing events present significant hazards to public spectators and participants.

D. Discussion of Proposed Rule

With the aforementioned hazards in mind, the Captain of the Port Buffalo proposes to establish a temporary safety zone that will ensure the safety of spectators and vessels during the HOTC and during the Cleveland Dragon Boat Festival. The proposed safety zone will be effective and enforced from 8 a.m. until 4 p.m. on September 21, 2013.

The proposed safety zone will encompass all waters of the Cuyahoga River, Cleveland, OH from a line drawn perpendicular from position 41°28′32″ N, 081°40′16″ W (NAD 83) just south of the Interstate 490 bridge, north to position 41°29′55″ N, 081°42′23″ W (NAD 83) just past the Detroit-Superior Viaduct bridge.

Entry into, transiting, or anchoring within the proposed safety zone is prohibited unless authorized by the Captain of the Port Buffalo or his on-scene representative. The Captain of the Port or his on-scene representative may be contacted via VHF Channel 16.

E. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes or executive orders.

1. Regulatory Planning and Review

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security (DHS). We conclude that this proposed rule is not a significant regulatory action because we anticipate that it will have minimal impact on the economy, will not interfere with other agencies, will not adversely alter the budget of any grant or loan recipients, and will not raise any novel legal or policy issues. The safety zone created by this proposed rule will be relatively small and enforced for relatively short time. Also, the proposed safety zone is designed to minimize its impact on navigable waters. Furthermore, the proposed safety zone has been designed to allow vessels to transit around it. Thus, restrictions on vessel movement within that particular area are expected to be minimal. Under certain conditions, moreover, vessels may still transit through the proposed safety zone when permitted by the Captain of the Port.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule will not have a significant economic impact on a substantial number of small entities. This proposed rule may affect the following entities, some of which might be small entities: The owners of operators of vessels intending to transit or anchor in a portion of the Cuyahoga River near Cleveland, Ohio between 8 a.m. to 4 p.m. on September 21, 2013.

This proposed safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: The safety zone will be in effect for only 9 and a half hours. Although the safety zone would apply to the entire width of the river, traffic would be allowed to pass through the zone with the permission of the Captain of the Port. Before the activation of the zone, we would issue maritime advisories widely available to users of the river.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this proposed rule would economically affect it.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT**, above. The Coast Guard will not retaliate against small entities that question or complain about this

proposed rule or any policy or action of the Coast Guard.

4. Collection of Information

This proposed rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520.).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under that Order and determined that this rule does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listen in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this proposed rule elsewhere in this preamble.

8. Taking of Private Property

This proposed rule would not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children From Environmental Health Risks

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This proposed rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

11. Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This proposed rule is not a ''significant energy action'' under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Commandant Instruction because it involves the establishment of a safety zone.

A preliminary environmental analysis checklist and a preliminary categorical exclusion determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and record keeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR parts 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapters 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T09–0523 to read as follows:

§ 165.T09–0523 Safety Zone; Cleveland Dragon Boat Festival and Head of the Cuyahoga, Cuyahoga River, Cleveland, OH.

(a) *Location.* The proposed safety zone will encompass all waters of the Cuyahoga River, Cleveland, OH from a line drawn perpendicular from position 41°28′32″ N, 081°40′16″ W (NAD 83) just south of the Interstate 490 bridge, north to position 41° 29′55″ N, 081°42′23″ W (NAD 83) just past the Detroit-Superior Viaduct bridge.

(b) *Effective and Enforcement Period.* This regulation is effective and will be enforced on September 21, 2013 from 8 a.m. until 4 p.m.

(c) *Definitions.* The following definitions apply to this section:

(1) ''On-scene Representative'' means any Coast Guard commissioned, warrant, or petty officer designated by the Captain of the Port Buffalo to monitor a safety zone, permit entry into the zone, give legally enforceable orders to persons or vessels within the zones, and take other actions authorized by the Captain of the Port.

(2) ''Public vessel'' means vessels owned, chartered, or operated by the U.S., or by a State or political subdivision thereof.

(d) *Regulations.* (1) In accordance with the general regulations in section 165.23 of this part, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port Buffalo or his designated on-scene representative.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port Buffalo or his designated on-scene representative.

(3) The ''on-scene representative'' of the Captain of the Port Buffalo is any Coast Guard commissioned, warrant or petty officer who has been designated

by the Captain of the Port Buffalo to act on his behalf.

(4) Vessel operators desiring to enter or operate within the safety zone shall contact the Captain of the Port Buffalo or his on-scene representative to obtain permission to do so. The Captain of the Port Buffalo or his on-scene representative may be contacted via VHF Channel 16. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the Captain of the Port Buffalo, or his on-scene representative.

(e) *Exemption.* Public vessels, as defined in paragraph (c) of this section, are exempt from the requirements in this section.

(f) *Waiver.* For any vessel, the Captain of the Port Buffalo or his designated representative may waive any of the requirements of this section, upon finding that operational conditions or other circumstances are such that application of this section is unnecessary or impractical for the purposes of public or environmental safety.

(g) *Notification.* The Captain of the Port Buffalo will notify the public that the safety zones in this section is or will be enforced by all appropriate means to the affected segments of the public including publication in the **Federal Register** as practicable, in accordance with 33 CFR 165.7(a). Such means of notification may also include, but are not limited to Broadcast Notice to Mariners or Local Notice to Mariners. The Captain of the Port will issue a Broadcast Notice to Mariners notifying the public when enforcement of the safety zone is cancelled.

Dated: June 27, 2013.

J. S. Imahori,

Commander, U.S. Coast Guard, Acting Captain of the Port Buffalo.

[FR Doc. 2013–17105 Filed 7–16–13; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2012–0107; FRL–9391–6]

RIN 2070–ZA16

Spirotetramat; Proposed Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes to establish tolerances for residues of spirotetramat in or on persimmon and sweet corn, kernel plus cob with husks removed; and to revise established tolerances in or on feijoa, papaya, and Spanish lime under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: Comments must be received on or before August 16, 2013.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2012–0107, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.htm.* Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Laura Nollen, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 305–7390; email address: *nollen.laura@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. This Proposal

EPA, on its own initiative, under FFDCA section 408(e), 21 U.S.C. 346a(e), is proposing to establish a tolerance for residues of the insecticide spirotetramat, in or on corn, sweet, kernel plus cob with husks removed at 1.5 parts per million (ppm). Additionally, EPA has noted several errors published in 40 CFR 180.641 that the Agency is also proposing to correct. Established tolerances for residues of spirotetramat in or on feijoa, papaya, and Spanish lime in 40 CFR

180.641(a)(1) are incorrectly listed and the previously recommended tolerance for residues in or on persimmon is missing. The tolerances are proposed to be corrected as follows: Feijoa from 0.30 ppm to 2.5 ppm; papaya from 2.5 ppm to 0.40 ppm; Spanish lime from 0.60 ppm to 13 ppm; and persimmon at 2.5 ppm.

III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of FFDCA defines ''safe'' to mean that '' there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of FFDCA section 408 and a complete description of the risk assessment process, see *http://www.epa.gov/fedrgstr/EPA-PEST/1997/November/Day-26/p30948.htm.*

Consistent with FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure, consistent with FFDCA section 408(b)(2), for tolerances for residues of spirotetramat in or on corn, sweet, kernel plus cob with husks removed; feijoa; papaya; Spanish lime; and persimmon. As discussed below, EPA is relying upon the findings in the preamble to the May 15, 2013 rule establishing tolerances for spirotetramat (78 FR 28507) (FRL–9382–8) and supporting risk assessments to establish and revise these tolerances.

On May 15, 2013, EPA published a final rule establishing tolerances for residues of the insecticide spirotetramat, (cis-3-(2,5-dimethlyphenyl)-8-methoxy-2-oxo-1-azaspiro[4.5]dec-3-en-4-yl-ethyl carbonate) and its metabolites in or on taro leaves; watercress; pomegranate; banana; bulb vegetable group 3–07; low growing berry, except strawberry, subgroup 13–07H; bushberry subgroup 13–07B; globe artichoke; pome fruit group 11–10; fruiting vegetable group 8–10; citrus fruit group 10–10; pineapple; coffee, green bean; and instant coffee, based on EPA's conclusion that aggregate exposure to spirotetramat is safe for the general population, including infants and children. In addition to the tolerances listed above, EPA also considered the following uses in the risk assessments that supported the May 15, 2013 final rule: persimmon and sweet corn, kernel plus cob with husks removed; and revised tolerances in or on feijoa, papaya, and Spanish lime.

Since the publication of the May 15, 2013 final rule, the toxicity profile of spirotetramat has not changed, and the risk assessments that supported the establishment of those spirotetramat tolerances published in the May 15, 2013 **Federal Register** remain valid. Those risk assessments also recommended the proposed new uses and revised tolerances listed above. Therefore, EPA is relying on those risk assessments in order to propose the new and revised tolerances. For a detailed discussion of the aggregate risk assessments and determination of safety for the proposed tolerances, please refer to the May 15, 2013 **Federal Register** document and its supporting documents, available at *http://www.regulations.gov*. EPA relies upon those supporting risk assessments and the findings made in the **Federal Register** document in support of this proposed rule.

IV. Background for This Proposal

On February 4, 2011, President Barack Obama and the Prime Minister of Canada, Stephen Harper, announced the creation of the United States-Canada Regulatory Cooperation Council (RCC) in order to increase regulatory transparency and coordination between the two countries. One of the areas of focus of the RCC is in agricultural production, in particular, the further alignment of crop protection product approvals and establishment of U.S. tolerances and Canadian maximum residue limits (MRLs) for major and minor uses of pesticides in both countries.

One action item identified through the activities of the RCC was the initiation of a pilot project for the joint review of residue data for spirotetramat in the United States and Canada, whereby both countries would work together to further align practices and tolerances/MRLs resulting from the joint review of domestic and import tolerances/MRLs in both countries.

Although Canada's Pest Management Regulatory Agency (PMRA) had received a petition for the use of spirotetramat on sweet corn in Canada, EPA did not. So, as part of the RCC pilot project to work together and align tolerances/MRLs, EPA is proposing a tolerance without U.S. registration for residues of spirotetramat and its metabolites and degradates in or on corn, sweet, kernel plus cob with husks removed based on the evaluation of the sweet corn residue data. As noted above, EPA has also considered the sweet corn use in its risk assessments, and has made a determination of safety finding for the use. Additional information regarding the RCC pilot project may be found at the following Web site: *http://www.epa.gov/oppfead1/international/naftatwg/us-canada-rcc.html.*

In addition to the proposed use of spirotetramat in or on sweet corn, EPA has identified several errors contained in 40 CFR 180.641. EPA is also proposing to correct these errors. Established tolerances for residues of spirotetramat in or on feijoa, papaya, and Spanish lime in 40 CFR 180.641(a)(1) are incorrectly listed and the previously recommended tolerance for residues in or on persimmon is missing. The tolerances are proposed to be corrected as follows: Feijoa from 0.30 ppm to 2.5 ppm; papaya from 2.5 ppm to 0.40 ppm; Spanish lime from 0.60 ppm to 13 ppm; and persimmon at 2.5 ppm.

In the last risk assessment relied upon for the May 15, 2013 rule, EPA took a conservative approach by utilizing tolerance values of 2.5 ppm for feijoa (which is higher than the established tolerance), papaya (which is the value of the established tolerance), and persimmon and 13 ppm for Spanish lime (which is higher than the established tolerance).

Based on the risk assessments and information described above, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children from aggregate exposure to spirotetramat residues. Further information about EPA's risk assessment and determination of safety supporting the tolerances established in the May 15, 2013 **Federal Register** action, as well as the proposed new and revised spirotetramat tolerances can be found at *http://www.regulations.gov* in the document entitled: ''Spirotetramat.

Human-Health Risk Assessment for the Proposed Uses in/on Taro, Leaves; Watercress; Pomegranate; Banana; Vegetable, Bulb, Group 3–07; Low growing Berry Subgroup 13–07H, Except Strawberry and Lowbush Blueberry; Bushberry Subgroup 13–07B; Artichoke, Globe; Vegetable, Fruiting, Group 8–10; Fruit, Pome, Group 11–10; Fruit, Citrus, Group 10–10; Pineapple; and Coffee; and Tolerances without U.S. Registration in/on Corn, Sweet, Kernel Plus Cob with Husks Removed as Part of the U.S.-Canada Regulatory Cooperation Council (RCC) Pilot Project.'' Further information regarding correcting the errors for spirotetramat in 40 CFR 180.641 may be found in the document: ''Spirotetramat: Acute and Chronic Dietary (Food and Drinking Water) Exposure and Risk Assessment to Support the Section 3 Registration Request For Use of Spirotetramat on Taro, Leaves; Watercress; Pomegranate; Banana; Vegetable, Bulb, Group 3–07; Low growing Berry Subgroup 13–07H, Except Strawberry and Lowbush Blueberry; Bushberry Subgroup 13–07B; Artichoke, Globe; Vegetable, Fruiting, Group 8–10; Fruit, Pome, Group 11–10; Fruit, Citrus, Group 10–10; Pineapple; and Coffee; and Tolerances without U.S. Registration in/on Corn, Sweet, Kernel Plus Cob with Husks Removed as Part of the U.S.-Canada Regulatory Cooperation Council (RCC) Pilot Project.'' Both documents may be found in docket ID number EPA–HQ–OPP–2012–0107.

V. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology, a high-performance liquid chromatography with tandem mass spectrometry (HPLC–MS/MS), is available to enforce the tolerance expression.

The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; email address: *residuemethods@epa.gov.*

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex Alimentarius is a joint United Nations Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level.

The Codex has established a MRL for spirotetramat in or on papaya at 0.4 mg/kg. While the EPA originally assessed for a tolerance in or on papaya at 0.35 ppm, the Agency is proposing to revise the tolerance to 0.40 ppm in order to harmonize with Codex. There is no risk concern with proposing a tolerance in or on papaya at 0.40 ppm because EPA assessed the dietary estimates using the conservative assumption of 2.5 ppm in the risk assessments supporting the use. Therefore, the dietary estimate is expected to slightly decrease upon the establishment of the revised papaya tolerance.

VI. Conclusion

Tolerances are proposed for residues of spirotetramat in corn, sweet, kernel plus cob with husks removed at 1.5 ppm, and persimmon at 2.5 ppm. Amended tolerances are also proposed in or on feijoa from 0.30 ppm to 2.5 ppm; papaya from 2.5 ppm to 0.40 ppm; and Spanish lime from 0.60 ppm to 13 ppm.

VII. Statutory and Executive Order Reviews

This proposed rule proposes to establish tolerances under FFDCA section 408(d). The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Because this proposed rule has been exempted from review under Executive Order 12866 due to its lack of significance, this proposed rule is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This proposed rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1501 *et seq.*). Nor does it require any special considerations under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA) (15 U.S.C. 272 note).

Pursuant to the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agency previously assessed whether establishment of tolerances, exemptions from tolerances, raising of tolerance levels, expansion of exemptions, or revocations might significantly impact a substantial number of small entities and concluded that, as a general matter, these actions do not impose a significant economic impact on a substantial number of small entities. These analyses for tolerance establishments and modifications, and for tolerance revocations were published on May 4, 1981 (46 FR 24950) and on December 17, 1997 (62 FR 66020), respectively, and were provided to the Chief Counsel for Advocacy of the Small Business Administration. Taking into account this analysis, and available information concerning the pesticides listed in this proposed rule, the Agency hereby certifies that this proposed action will not have significant negative economic impact on a substantial number of small entities. Any comments about the Agency's determination should be submitted to the EPA along with comments on the proposal, and will be addressed prior to issuing a final rule.

In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive order to include regulations that have ''substantial direct effects on the States, on the relationship between the national

government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This proposed rule directly regulates growers, food processors, food handlers, and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). For these same reasons, the Agency has determined that this proposed rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.'' This proposed rule will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this proposed rule.

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: July 2, 2013.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR chapter I be amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. In § 180.641, in the table in paragraph (a), alphabetically add the commodities ''Corn, sweet, kernel plus cob with husks removed'' and ''Persimmon'' and revise the entries for ''Feijoa'', ''Papaya'' and ''Spanish lime,'' and footnote 1 to read as follows:

§ 180.641 Spirotetramat; tolerances for residues.

(a) * * *

Commodity	Parts per million
* * * * *	
Corn, sweet, kernel plus cob with husks removed [1]	1.5
* * * * *	
Feijoa	2.5
* * * * *	
Papaya	0.40
* * * * *	
Persimmon	2.5
* * * * *	
Spanish lime	13
* * * * *	

[1] There are no U.S. registrations as of [date of effective date of final rule] for use on corn, sweet, kernel plus cob with husks removed.

* * * * *

[FR Doc. 2013–16904 Filed 7–16–13; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

46 CFR parts 2, 24, 25, 30, 70, 90, and 188

[Docket No. USCG–2012–0919]

RIN 1625–AB83

Lifesaving Devices—Uninspected Commercial Barges and Sailing Vessels

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes aligning its regulations with the 2010 Coast Guard Authorization Act. Before 2010, uninspected commercial barges and uninspected commercial sailing vessels fell outside the scope of a statute requiring the regulation of lifesaving devices on uninspected vessels. Lifesaving devices were required on uninspected commercial barges and sailing vessels only if they carried passengers for hire. The 2010 Act brought uninspected commercial barges and sailing vessels within the scope of the statutory requirement to carry lifesaving devices even if they carry no passengers. The Coast Guard proposes requiring use of wearable personal flotation devices for individuals on board uninspected commercial barges and sailing vessels, and amending several regulatory tables to reflect that requirement. This rulemaking promotes the Coast Guard's marine safety mission.

DATES: Comments and related material must either be submitted to our online docket via h*ttp://www.regulations.gov* on or before October 15, 2013 or reach the Docket Management Facility by that date.

ADDRESSES: You may submit comments identified by docket number USCG–2012–0919 using any one of the following methods:

(1) *Federal eRulemaking Portal: http://www.regulations.gov.*

(2) *Fax:* 202–493–2251.

(3) *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

(4) *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

To avoid duplication, please use only one of these four methods. See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or email Mr. Martin Jackson, Office of Design and Engineering Standards Lifesaving and Fire Safety Division (CG–ENG–4), Coast Guard; telephone 202–372–1391, email *Martin.L.Jackson@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Ms. Barbara Hairston, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

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I. Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided.

A. Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG–2012–0919), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. We recommend that you include your name and a mailing address, an email address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and insert ''USCG–2012–0919'' in the ''Search'' box. Click on ''Submit a Comment'' in the ''Actions'' column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope.

We will consider all comments and material received during the comment period and may change this proposed rule based on your comments.

B. Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov* and insert ''USCG–2012–0919'' in the ''Search'' box. Click ''Search.'' Click the ''Open Docket Folder'' in the ''Actions'' column. If you do not have access to the internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

C. Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

D. Public meeting

We do not now plan to hold a public meeting. You may submit a request for one to the docket using one of the methods specified under **ADDRESSES**. In your request, explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

II. Abbreviations

AWO American Waterways Operators
CDC Centers for Disease Control and Prevention
CFR Code of Federal Regulations
E.O. Executive Order
FR **Federal Register**
NAICS North American Industry Classification System
NIOSH National Institute for Occupational Safety and Health
Non-PFH Not carrying persons for hire
NPRM Notice of proposed rulemaking
OSHA Occupational Safety and Health Administration
PFD Personal flotation device
Pub. L. Public Law
RCP American Waterways Operators' Responsible Carriers Program
§ Section symbol
SBA U.S. Small Business Association
The Act 2010 Coast Guard Authorization Act
U.S.C. United States Code

III. Background

Sections 2103 and 4102 of title 46, United States Code (U.S.C.), provide the legal basis for this proposed rule. Section 2103 gives the Secretary of the department in which the Coast Guard is operating general regulatory authority to carry out the provisions of 46 U.S.C. Subtitle II (''Vessels and Seamen''). Section 4102(b), as amended by section 619 of the 2010 Coast Guard Authorization Act (the Act), Public Law 111–281, 124 Stat. 2905, requires the Secretary to ''prescribe regulations requiring the installation, maintenance, and use of life preservers and other lifesaving devices for individuals on board uninspected vessels.'' The Secretary of Homeland Security's authority under 46 U.S.C. 2103 and 4102 is delegated to the Coast Guard. *See* DHS Delegation No. 0170.1(92)(a), (92)(b).

The uninspected vessels to which section 4102(b) applies are defined in 46 U.S.C. 2101(43) as vessels not subject to inspection under 46 U.S.C. 3301 and that are not recreational vessels as defined in 46 U.S.C. 2101(25). Until passage of the Act in 2010, section 4102(b) applied only to uninspected vessels ''propelled by machinery,'' and thus excluded most barges and sailing vessels unless they carried passengers for hire. (Vessels carrying passengers for hire are inspected vessels covered by 46 U.S.C. 3301.) Current Coast Guard regulations that implement section 4102(b) reflect the ''propelled by machinery'' requirement and therefore specifically exempt those excluded barges and sailing vessels. *See* 46 CFR 25.25–1(c) and (d).

The purpose of the proposed rule is to implement 46 U.S.C. 4102(b) as amended by the Act. The Act deleted the requirement in section 4102(b) that vessels be propelled by machinery. As amended, section 4102(b) now requires all non-recreational uninspected vessels, regardless of vessel type or mode of propulsion, to make some form of lifesaving devices available for the use of individuals on board the vessel. The types and numbers of devices appropriate for each type of vessel are left to the Coast Guard's discretion, as are the requirements for installing, maintaining, and using those devices.

We are unaware of any commercial sailing vessel currently in service, except for those that carry passengers for hire and that, therefore, are inspected vessels subject to Coast Guard regulations in 46 CFR subchapters H, K, or T, and already required to carry lifesaving devices. However, should such an uninspected commercial sailing vessel ever enter service, it would be covered by this proposed rule. Many commercial barges are also subject to inspection and therefore are already required to carry lifesaving devices.[1]

IV. Discussion of Proposed Rule

The Coast Guard proposes amending 46 CFR subpart 25.25, which concerns

[1] Barges subject to inspection include barges carrying combustible or flammable liquid cargo in bulk (inspected in accordance with 46 CFR subchapter D); barges carrying more than a few passengers (the number varies by barge type but is generally at least 7; 46 CFR subchapters H, K, or T); seagoing and Great Lakes barges (46 CFR subchapter I); and tank barges carrying specified bulk or dangerous cargoes (46 CFR subchapter O).

life preservers and other lifesaving equipment on uninspected commercial vessels.

Section 25.25–1 exempts certain types of vessels from subpart 25.25. Paragraphs (a) and (b) of the section exempt non-commercial vessels and vessels leased, rented, or chartered to another for that person's non-commercial use. Paragraphs (c) and (d) exempted uninspected commercial sailing vessels and barges that do not carry passengers for hire. Paragraphs (c) and (d) reflected the pre-2010 inclusion of the ''propelled by machinery'' clause in 46 U.S.C. 4102(b). Because section 4102(b) now mandates the Coast Guard to require some form of lifesaving devices on uninspected commercial sailing vessels and barges that do not carry passengers for hire, we propose removing 46 CFR 25.25–1(c) and (d).

We propose amending the definitions in 46 CFR 25.25–3 by adding a definition for ''approval series,'' a term we propose using elsewhere in the subpart to describe equipment requirements.

We propose amending 46 CFR 25.25–5. We propose revising current paragraphs (b) through (f) to eliminate references to equipment specifications that have become obsolete or that have lost their Coast Guard-approved status since this section was last amended in 2002. Although the proposed regulatory text omits the language of current § 25.25–5(f)(3), requiring Type V commercial hybrid PFDs to be worn when a vessel is underway, the substance of that provision would be covered by the proposed requirement in § 25.25–5(c)(2)(i) for approved commercial hybrid PFDs to be used in accordance with the conditions marked on the PFD and in the owner's manual. All Coast Guard-approved Type V hybrid PFDs are labeled with, and their user manuals refer to, the conditions contained in current § 25.25–5(f)(3). Otherwise, the requirements currently found in § 25.25–5(b) through (f) would not be substantively changed, but would be incorporated into revised § 25.25–5(b) and (c).

We propose revising the introductory paragraph in § 25.25–5(b) to provide for commercial barges of any length. Barge operators would have to provide some form of wearable PFD (or an immersion suit) for individuals on board. Although most barges are longer than 26 feet, unlike other uninspected vessels we would not require barges to be equipped with lifebuoys. Lifebuoys typically are mounted on stanchions. Given the configuration of some barges, installation of a lifebuoy stanchion could unreasonably interfere with operations, and because often only one individual is on board a barge at any given time, should that individual fall overboard there would be no one available to throw the lifebuoy to the individual. We think the use of a wearable PFD not only involves less burden but also provides greater safety.

We would amend 46 CFR 25.25–9 to allow PFDs for barge personnel to be stowed remotely rather than on the barge itself, and to require barge operators to ensure that PFDs are worn by individuals while they are on board a barge. This is in line with current industry practice. Typically, barge operators stow PFDs on the barge's towboat, and require crew members to don PFDs before they go aboard a barge and to wear them while on board. Allowing this not only increases safety but also does so at a lower cost relative to the lifebuoy option.

Finally, we would amend tables in 46 CFR 2.01–7, 24.05–1, 30.01–5, 70.05–1, 90.05–1, and 188.05–1. These tables describe the applicable Coast Guard regulations for different vessel types. They currently refer to the 46 CFR 25.25–1(c) and (d) exemptions that we propose removing. We would reflect the removal of those exemptions in the tables.

V. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and executive orders (E.O.s) related to rulemaking. Below we summarize our analyses based on these statutes or E.O.s.

A. Regulatory Planning and Review

Executive Orders 12866 (''Regulatory Planning and Review'') and 13563 (''Improving Regulation and Regulatory Review'') direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

This proposed rule is not a significant regulatory action under section 3(f) of E.O. 12866, Regulatory Planning and Review, as supplemented by E.O. 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget (OMB) has not reviewed it under that Order. Nonetheless, we developed an analysis of the costs and benefits of the proposed rule to ascertain its probable impacts on industry. We consider all estimates and analysis in this Regulatory Analysis to be preliminary and subject to change in consideration of public comments.

A preliminary regulatory assessment follows:

As described in section III (Background) of this NPRM, as amended by section 619 of the Act, 46 U.S.C. 4102(b) now makes all uninspected commercial barges and sailing vessels subject to Coast Guard regulation for the installation, maintenance, and use of life preservers and other lifesaving devices for individuals on board. The 2010 amendment removed language that formerly limited the applicability of section 4102(b) to vessels ''propelled by machinery,'' which effectively kept most commercial barges, which are not self-propelled by machinery, as well as commercial sailing vessels, outside the scope of section 4102(b). At this time, we are unaware of any uninspected commercial sailing vessel not carrying passengers for hire currently in service, and thus the data on which the rest of this discussion are based relate exclusively to uninspected commercial barges not carrying passengers for hire.

Proposed 46 CFR 25.25–5(b) requires owners of affected vessels to store and maintain at least one PFD for each person on board a barge.[2] In lieu of storing a PFD for each individual onboard a barge, PFDs can be stored and maintained on another vessel so long as crewmembers wear the PFDs while onboard the barge. For instance, uninspected commercial barges not carrying passengers for hire carry low-cost cargos in bulk and generally do not carry individuals on board. However, towing vessel personnel may be on board the barge to perform specific tasks such as securing the barge to other barges or the towing vessel, or providing lookout for the towing vessel.

While some firms that operate barges may also own them, for the purposes of this analysis, we treat barge owners and operators as different companies. We assume that the barge operators would be responsible for the PFDs because they are responsible for the safety of their crews and therefore they would store a sufficient number of PFDs for

[2] While barges may in practice be tied together, there is no exception as to storing a set of lifesaving devices for each barge rather than one per set of barges or around the perimeter of a set of barges. Towing vessels may transport barges from various barge owners and drop them off on a schedule, so having lifebuoys and sets of PFDs on a perimeter of a set of barges may not be feasible.

each crewmember on board the towing vessel. Under proposed 46 CFR 25.25–9(c), a barge operator may comply with proposed § 25.25–5(b) by storing PFDs elsewhere and ensuring that each individual dons the equipment before boarding the barge and keeps it on for as long as the individual remains on board, in lieu of maintaining PFDs on each barge. This would reduce costs by eliminating the need to install storage facilities on each barge, and would enable the typical industry practice of PFDs being worn to be substituted.[3] We also assume that the barge owners would then negotiate the PFD wear conditions with the barge operators.

Table 1 summarizes the affected population, costs, and benefits of this proposed rule.

TABLE 1—SUMMARY OF AFFECTED POPULATION, COSTS AND BENEFITS

Category	Description
Applicability	Uninspected commercial vessels. Not propelled by machinery. Not carrying passengers for hire. 35,568 barges (including new and currently inactive barges). 0 sailing vessels.
Costs	No additional cost to purchase or install PFDs since already required on towing vessels that would transport affected barges.
Benefits (Qualitative)	Improves regulatory efficiency by providing technical updates to the Code of Federal Regulations. Reinforces existing company policy and current industry practice of PFD use.

Cost

No cost was attributed to the purchase, installation, or maintenance of PFDs due to current regulatory requirements for the carriage of PFDs on towing vessels[4] and standard industry practice of wearing a PFD while on board commercial barges. Uninspected commercial barges not carrying passengers for hire are typically unmanned and anyone boarding such vessel would be coming from either a dock, shore facility, or another vessel. Under OSHA regulations in 29 CFR 1926 Subpart E, personnel boarding from a dock or shore are already required to wear a PFD and we find no evidence of non-compliance. Under 46 CFR 25.25–5, uninspected vessels (including towing vessels) are required to maintain at least one PFD per person on board the vessel. In proposed 46 CFR 25.25–5, if a barge operator stores PFDs elsewhere and ensures that each individual dons the equipment before boarding the barge and keeps it on for as long as the individual remains on board, they can use the PFDs stored on the towing vessel in lieu of maintaining a set on each barge. Presumably, a crewmember coming from a towing vessel would wear the PFD that was originally stored on the towing vessel, which discussions with industry show to be standard practice. Therefore, we estimate that there is no additional cost to purchase or install new PFDs in response to the proposed rule. We note that the cost for a type 1 PFD may range from $55 to $79 per PFD depending on the type that a company uses and the expected lifespan of a PFD is 5 years.[5]

As stated in the introductory paragraphs of this section, we believe that companies already require the wearing of PFDs or work vests based on current OSHA regulatory requirements and industry practice.[6] Furthermore, the American Waterways Operators association has encouraged training with development of ''Fall Overboard Prevention'' and ''Slip, Trip and Fall Prevention'' lesson plans since 2002, to raise awareness on preventing falls overboard and encouraging PFD use.[7] The American Waterways Operators' Responsible Carriers Program (RCP) requires that participants ensure that a sufficient number of PFDs are available and in working order.[8] OSHA also encourages wearing of PFDs to improve deck safety on barges.[9]

Benefits

A benefit of this rule is the improvement in regulatory efficiency by providing technical updates to the Code of Federal Regulations, aligning them to the U.S. Code and thereby reducing the potential for uncertainty and confusion.

We reviewed casualty cases from the years 2000 to 2010 that may have been impacted by this proposed rule. During this time, there were 49 falls overboard from barges, an average of approximately four casualties a year. We reviewed these cases to see if the individual overboard wore a PFD (or had ready access to one) and whether the availability of such devices could have reduced the risk of death in a fall overboard. Of the casualties that we reviewed, we found only one instance where the individual did not wear a PFD (despite company policy requiring the use of a PFD).[10] The casualty report noted that the failure to wear a PFD was a contributing factor to the fatality. In this case, the proposed regulation may have reinforced existing company policy of PFD use.

Alternatives

We examine four alternatives for this regulation.

Proposed Alternative—Store and maintain enough PFDs for all persons on board. The PFD can be worn in lieu of storage: This alternative was chosen because it meets the statutory requirement at no additional cost. Furthermore, this requirement would be more in line with existing PFD requirements for other vessels and provides regulatory flexibility in the option of storage or wearing of PFDs. Uninspected vessels (such as towing vessels) must store and maintain a sufficient number of PFDs for every individual on board the vessel in accordance with 46 CFR 25.25–5. In lieu of storing PFDs, companies can require individuals to wear a PFD or work vest.

[3] Based on information from the American Waterways Operators (AWO), we believe that crewmembers wear PFDs while onboard a barge.

[4] 46 CFR 25.25–5

[5] *http://www.westmarine.com/webapp/wcs/stores/servlet/SiteSearch?storeId=11151&langId=-1&catalogId=10001&pageSize=10&beginIndex=0&sType=SimpleSearch&searchTermScope=3&Ns=Most+Popular%7C0&keyword=work+vest&searchBtn.*

[6] See for example *http://www.parkertowing.com/downloads/Person.PDF; http://www.southerntowing.net/December2005.pdf.*

[7] *http://www.americanwaterways.com/commitment_safety/lessons/Fall_Overboard/slpsplan.doc; http://www.americanwaterways.com/commitment_safety/lessons/ppe/PPE_PFDs.DOC; http://www.americanwaterways.com/commitment_safety/QAT/falloverboardqatreportapril2012.pdf.*

[8] *http://www.americanwaterways.com/commitment_safety/RCP.pdf.*

[9] *http://www.osha.gov/Publications/3358deck-barge-safety.pdf.*

[10] Marine Information for Safety and Law Enforcement Activity Number 90148, year 2011.

Companies have the option of either instituting a policy of wearing PFDs while on board (which discussions with industry and reviews of their casualty data show to be the case on the majority of vessels) or otherwise making PFDs readily accessible. Therefore, we estimate that there is no cost to obtain or install PFDs. Compared to other listed alternatives, this proposed alternative provides the greatest flexibility and safety, at no cost.

Alternative 1—Require that all vessels have a lifebuoy, and store a sufficient number of PFDs on board. In lieu of storing PFDs, persons can wear PFDs. This alternative is similar to the proposed alternative in that it requires the wearing or storing of PFDs (which we estimate to be no additional cost), but owners would also need to install a lifebuoy on board barges at an estimated cost of $262 per vessel (barge) every 5 years.[11] Annual costs may range from $342,958 to $3.6 million depending on the annual affected population and lifebuoy replacement.[12] At a total estimated 35,568 barges (including new constructions and currently inactive barges) we anticipate that the 10-year undiscounted cost would be $16.9 million for this alternative. This alternative was not chosen because this would cost more and not provide additional benefit as the lifebuoy would provide protection redundant to the PFD, and in most cases, there would be no one available to deploy it. We did not find any associated benefits that would outweigh the costs for this alternative. Table 2 provides the breakdown in population and undiscounted costs by year.

TABLE 2—UNDISCOUNTED COST TO INSTALL RING BUOYS

Year	Population	Replacement	Per vessel cost ($)	Undiscounted cost ($)
Year 1	12548	0	262	3,287,576
Year 2	12548	0	262	3,287,576
Year 3	1309	0	262	342,958
Year 4	1309	0	262	342,958
Year 5	1309	0	262	342,958
Year 6	1309	12548	262	3,630,534
Year 7	1309	12548	262	3,630,534
Year 8	1309	1309	262	685,916
Year 9	1309	1309	262	685,916
Year 10	1309	1309	262	685,916
Total				16,922,842

Alternative 2—Require that all vessels have a lifebuoy only. This change would have the effect of requiring one lifebuoy on board each vessel (barge). The lifebuoy would need to be installed (and replaced as needed) at an estimated cost to barge owners of $262 per vessel (barge) every 5 years. At an estimated 35,568 barges, we anticipate that this alternative would cost $16.9 million overall, undiscounted. As mentioned above, the lifebuoy would provide protection redundant to the PFD, and in most cases, there would be no one available to deploy it. Also mentioned in Alternative 1, above, is the derivation of the cost. This alternative was not chosen because it would not provide the lowest cost with the maximum benefits.

Alternative 3—No action. Section 619 of the Act directs the Department of Homeland Security (DHS) Secretary to carry out specific regulatory actions; therefore if no action is taken, the Coast Guard, having been delegated this rulemaking authority by the DHS Secretary, will not fulfill its Congressional mandate. This will further cause a conflict between U.S. Code and the Code of Federal Regulations, resulting in regulatory uncertainty and confusion.

B. Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

There are approximately 2,622 owners of 22,478 barges. We researched 355 randomly selected small entities to determine if they fell below or exceeded the threshold for a small entity, as determined by the U.S. Small Business Association (SBA). To establish whether an entity was below the threshold or above the threshold, we used the North American Industry Classification System (NAICS) code for each industry and the small entity qualifying definitions for each NAICS code established by the SBA for businesses. The following provides a breakdown of the size determination for the entities:

- 3 Government or non-profit exceeding the threshold
- 1 Government or non-profit below the threshold
- 45 businesses exceeding the threshold
- 43 businesses below the threshold
- 263 unknown and therefore considered small

Based on this analysis, 86 percent of the sample is small entities.

Table 3 provides a description of the most-prevalent NAICS for the small entities.

[11] Welder: 4 hours (Coast Guard subject matter expert)*$27 per hour (*http://www.bls.gov/oes/current/oes514121.htm*) * load factor of 1.482. Therefore, $18.67 * 1.482 = $27.70. Lifebuoy: $72. *http://www.amazon.com/RING–BUOY–WHITE–COAST–APPROVED/dp/B001DSKEAO, http://www.westmarine.com/webapp/wcs/stores/servlet/Product_11151_10001_39507_-1?cid=chanintel_google&ci_src=14110944&ci_sku=39507.* Brackets $40.00. *http://www.starmarinedepot.com/Seachoice+Ring+Buoy+Bracket.html, http://www.starmarinedepot.com/Seachoice+Ring+Buoy+Bracket.htm*l Stanchion $42.00. *http://www.discountsteel.com/items/A36_Hot_Rolled_Steel_Equal_Leg_Angle.cfm?item_id=183&size_no=19&sku_no=74&pieceLength=cut&len_ft=8&frmGS=true.* Therefore, $262 = (4 * $27/hour welder wage, loaded) + $72 per lifebuoy + $40 brackets (for 3) + $42 per stanchion.

[12] Similar to PFDs, we assume the expected lifespan, and therefore replacement time, of a lifebuoy to be 5 years.

TABLE 3—NINE MOST-PREVALENT NAICS CODES AND SMALL ENTITIES SIZE STANDARDS

NAICS	Industry	Percent of small entities	SBA Size threshold (less than threshold small)	SBA Size standard type	Number of entities
336611	Ship Building and Repairing	16	1000	Employee	7
237110	Water and Sewer Line and Related Structures Construction	7	$33,500,000	Revenue	3
532411	Commercial Air, Rail, and Water Transportation Equipment Rental and Leasing.	7	$7,000,000	Revenue	3
236220	Commercial and Institutional Building Construction	5	$33,500,000	Revenue	2
237990	Other Heavy and Civil Engineering Construction	5	$33,500,000	Employee	2
238910	Site Preparation Contractors	5	$14,000,000	Employee	2
327320	Ready-Mix Concrete Manufacturing	5	500	Employee	2
423320	Brick, Stone, and Related Construction Material Merchant Wholesalers.	5	100	Employee	2
483211	Inland Water Freight Transportation	5	500	Employee	2
	All others	43			19
Total		100			44

Company revenue for businesses below the threshold, as established by the SBA, ranges from $59,000 to $7.5 million. However, we do not anticipate additional costs to this proposed rule, so we do not anticipate significant economic impacts on affected small entities as a result of this proposed rule.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment to the Docket Management Facility at the address under **ADDRESSES**. In your comment, explain why you think it qualifies and how and to what degree this rule would economically affect it.

C. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance; please consult Mr. Martin Jackson, Office of Design and Engineering Standards, Lifesaving and Fire Safety Division (CG–ENG–4) via phone at (202) 372–1391 or via email at *Martin.L.Jackson@uscg.mil*. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

D. Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

E. Federalism

A rule has implications for federalism under E.O. 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it has implications for federalism. A summary of our analysis follows.

Before the enactment of section 619 of the Act, the lifesaving device requirements found in 46 U.S.C. 4102(b) did not apply to uninspected commercial sailing vessels and uninspected commercial barges not carrying passengers for hire. By enacting section 619 of the Act, Congress expressly intended existing Coast Guard regulations to apply these vessels that were previously exempted. Therefore, existing State or local laws or regulations that regulate the ''installation, maintenance, and use of life preservers and other lifesaving devices for individuals on board uninspected vessels'' are preempted, but only in so far as a State or local law or regulation conflicts with the federal regulation.

Given our analysis, the Coast Guard recognizes the key role State and local governments may have in making regulatory determinations. Additionally, Sections 4 and 6 of E.O. 13132 require that for any rules with preemptive effect, the Coast Guard shall provide elected officials of affected State and local governments and their representative national organizations the notice and opportunity for appropriate participation in any rulemaking proceedings, and to consult with such officials early in the rulemaking process. Therefore, we invite affected State and local governments and their representative national organizations to indicate their desire for participation and consultation in this rulemaking process by submitting comments to this notice. In accordance with E.O. 13132, the Coast Guard will provide a federalism impact statement to document (1) the extent of the Coast Guard's consultation with State and local officials that submit comments to this proposed rule, (2) a summary of the nature of any concerns raised by State or local governments and the Coast Guard's position thereon, and (3) a statement of the extent to which the concerns of State and local officials have been met.

F. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions

that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

G. Taking of Private Property

This proposed rule would not cause a taking of private property or otherwise have taking implications under E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

H. Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of E.O. 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

I. Protection of Children

We have analyzed this proposed rule under E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

J. Indian Tribal Governments

This proposed rule does not have tribal implications under E.O. 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

K. Energy Effects

We have analyzed this proposed rule under E.O. 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under E.O. 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

L. Technical Standards

The National Technology Transfer and Advancement Act (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

M. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. A preliminary environmental analysis checklist supporting this determination is available in the docket where indicated under the ''Public Participation and Request for Comments'' section of this preamble. This rule involves regulations concerning equipping of vessels, equipment approval and carriage requirements and vessel operation safety standards. Thus, this rule is likely to be categorically excluded under section 2.B.2, figure 2–1, paragraphs (34)(d) and (e) of the Instruction, and 6(a) of the **Federal Register**, Vol. 6, No. 14, Tuesday, July 23, 2002, page 48243. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects

46 CFR Part 2

Marine safety, Reporting and recordkeeping requirements, Vessels.

46 CFR Part 24

Marine safety.

46 CFR Part 25

Fire prevention, Marine safety, Reporting and recordkeeping requirements.

46 CFR Part 30

Cargo vessels, Foreign relations, Hazardous materials transportation, Penalties, Reporting and recordkeeping requirements, Seamen.

46 CFR Part 70

Marine safety, Passenger vessels, Reporting and recordkeeping requirements.

46 CFR Part 90

Cargo vessels, Marine safety.

46 CFR Part 188

Marine safety, Oceanographic research vessels.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 46 CFR parts 2, 24, 25, 30, 70, 90, and 188 as follows:

PART 2—VESSEL INSPECTIONS

■ 1. The authority citation for part 2 continues to read as follows:

Authority: Sec. 622, Pub. L. 111–281; 33 U.S.C. 1903; 43 U.S.C. 1333; 46 U.S.C. 2110, 3103, 3205, 3306, 3307, 3703; 46 U.S.C. Chapter 701; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1.

§ 2.01–7 [Amended]

■ 2. Amend § 2.01–7 to remove the phrase ''carrying passengers or passengers for hire'' from Table 2.01–7(a), column 5, rows 3 and 4, and remove the phrase ''none.'' from column 5, row 6, adding in its place the phrase ''All vessels not covered by columns 2, 3, 4, and 6.''

PART 24—GENERAL PROVISIONS

■ 3. The authority citation for part 24 continues to read as follows:

Authority: 46 U.S.C. 2113, 3306, 4104, 4302; Pub. L. 103–206; 107 Stat. 2439; E.O. 12234; 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1.

§ 24.05–1 [Amended]

■ 4. Amend § 24.05–01 to remove the phrase ''carrying passengers or passengers for hire'' from Table 24.05–1(a), column 5, rows 3 and 4, and remove the phrase ''none.'' from column 5, row 6, adding in its place the phrase ''All vessels not covered by columns 2, 3, 4, and 6.''

PART 25—REQUIREMENTS

■ 5. The authority citation for part 25 continues to read as follows:

Authority: 33 U.S.C. 1903(b); 46 U.S.C. 3306, 4102, 4302; Department of Homeland Security Delegation No. 0170.1.

§ 25.25–1 [Amended]

■ 6. Amend § 25.25–1 as follows:

■ a. In paragraph (a) following the text ''noncommercial use;'', add the word ''and'';

■ b. In paragraph (b) following the text ''noncommercial use'', remove the punctuation '';'', and add, in its place, the punctuation ''.''; and

■ c. Remove paragraphs (c) and (d).

■ 7. Revise § 25.25–3 to read as follows:

§ 25.25–3 Definitions.

As used in this subpart:

(a) *Approval series* means the first six digits of a number assigned by the Coast Guard to approved equipment. Where approval is based on a subpart of subchapter Q of this chapter, the approval series corresponds to the number of the subpart. A listing of current and formerly approved equipment and materials may be found on the Internet at: *http://cgmix.uscg.mil/equipment.* Each OCMI may be contacted for information concerning approved equipment.

(b) *Approved* means approved under subchapter Q of this chapter.

(c) *Use* means operate, navigate, or employ.

■ 8. Revise § 25.25–5 to read as follows:

§ 25.25–5 Life preservers and other lifesaving equipment required.

(a) No person may operate a vessel to which this subpart applies unless it meets the requirements of this subpart.

(b) The following applies to all vessels, except commercial barges not carrying passengers for hire which must comply with paragraph (b)(1) of this section or make substitutions authorized by paragraph (c) of this section.

(1) Each vessel not carrying passengers for hire and less than 40 feet in length must have on board at least one wearable personal flotation device (PFD) approved under 46 CFR subchapter Q, and of a suitable size for each person on board.

(2) Each vessel carrying passengers for hire, and each vessel not carrying passengers for hire and 40 feet in length or longer, must have at least one PFD approved under approval series 160.055, 160.155, or 160.176, and of a suitable size for each person on board.

(3) In addition to the equipment required by paragraphs (b)(1) and (b)(2), each vessel 26 feet in length or longer must have at least one approved lifebuoy, and each uninspected passenger vessel of at least 100 gross tons must have at least three approved lifebuoys. Lifebuoys must be approved under approval series 160.050 or 160.150, except that a lifebuoy approved under former 46 CFR 160.009 prior to May 9, 1979, may be used as long as it is in good and serviceable condition.

(c)(1) Each vessel not carrying passengers for hire may substitute an immersion suit approved under 46 CFR 160.171 for a wearable PFD required under paragraphs (b)(1) or (b)(2) of this section.

(2) On each vessel, regardless of length and regardless of whether carrying passengers for hire, an approved commercial hybrid PFD may be substituted for a PFD approved under approval series 160.055, 160.155, or 160.176, if it is—

(i) Used in accordance with the conditions marked on the PFD and in the owner's manual; and

(ii) Labeled for use on commercial vessels.

■ 9. In § 25.25–9, add a paragraph (c) to read as follows:

§ 25.25–9 Storage.

* * * * *

(c) For a barge to which this subpart applies, the wearable lifesaving equipment specified in 46 CFR 25.25–5 need not be stored on board the barge if the barge's operator stores it elsewhere, and ensures that each individual dons the equipment before boarding the barge and keeps it on for as long as the individual remains on board. Donned lifesaving equipment approved under 46 CFR 160.053 is acceptable for the purposes of this paragraph (c).

PART 30—GENERAL PROVISIONS

■ 10. The authority citation for part 30 continues to read as follows:

Authority: 46 U.S.C. 2103, 3306, 3703; Pub. L. 103–206, 107 Stat. 2439; 49 U.S.C. 5103, 5106; Department of Homeland Security Delegation No. 0170.1; Section 30.01–2 also issued under the authority of 44 U.S.C. 3507; Section 30.01–05 also issued under the authority of Sec. 4109, Pub. L. 101–380, 104 Stat. 515.

§ 30.01–5 [Amended]

■ 11. Amend § 30.01–5 to remove the phrase ''carrying passengers or passengers for hire'' from Table 30.01–5(d), column 5, rows 3 and 4, and remove the word ''none'' from column 5, row 6, adding in its place the phrase ''All vessels not covered by columns 2, 3, 4, and 6.''

PART 70—GENERAL PROVISIONS

■ 12. The authority citation for part 70 continues to read as follows:

Authority: 46 U.S.C. 3306, 3703; Pub. L. 103–206, 107 Stat. 2439; 49 U.S.C. 5103, 5106; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1; Section 70.01–15 also issued under the authority of 44 U.S.C. 3507.

§ 70.05–1 [Amended]

■ 13. Amend § 70.05–1 to remove the phrase ''carrying passengers or passengers for hire'' from Table 70.05–1(a), column 5, rows 3 and 4, and remove the word ''none'' from column 5, row 6, adding in its place the phrase ''All vessels not covered by columns 2, 3, 4, and 6.''

PART 90—GENERAL PROVISIONS

■ 14. The authority citation for part 90 continues to read as follows:

Authority: 46 U.S.C. 3306, 3703; Pub. L. 103–206, 107 Stat. 2439; 49 U.S.C. 5103, 5106; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1.

§ 90.05–1 [Amended]

■ 15. Amend § 90.05–1 to remove the phrase ''carrying passengers or passengers for hire'' from Table 90.05–1(a), column 5, rows 3 and 4, and remove the word ''none.'' from column 5, row 6, adding in its place the phrase ''All vessels not covered by columns 2, 3, 4, and 6.''

PART 188—GENERAL PROVISIONS

■ 16. The authority citation for part 188 continues to read as follows:

Authority: 46 U.S.C. 2113, 3306; Pub. L 103–206, 107 Stat. 2439; 49 U.S.C. 5103, 5106; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1.

§ 188.05–1 [Amended]

■ 17. Amend § 188.05–1 to remove the phrase ''carrying passengers or passengers for hire'' from Table 188.05–1(a), column 5, rows 3 and 4, and remove the word ''none.'' from column 5, row 6, adding in its place the phrase ''All vessels not covered by columns 2, 3, 4, and 6.''

Dated: July 9, 2013.

J. G. Lantz,

Director of Commercial Regulations and Standards, U.S. Coast Guard.

[FR Doc. 2013–16955 Filed 7–16–13; 8:45 am]

BILLING CODE 9110–04–P

Notices

Federal Register
Vol. 78, No. 137
Wednesday, July 17, 2013

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

July 12, 2013.

The Department of Agriculture will submit the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13 on or after the date of publication of this notice. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, Washington, DC; New Executive Office Building, 725 17th Street NW., Washington, DC, 20503. Commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@omb.eop.gov* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602.

Comments regarding these information collections are best assured of having their full effect if received by August 16, 2013. Copies of the submission(s) may be obtained by calling (202) 720–8681.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Agricultural Marketing Service

Title: Federal Seed Act Program.

OMB Control Number: 0581–0026.

Summary of Collection: The Federal Seed Act (FSA) (7 U.S.C. 1551–1611) regulates agricultural and vegetable seeds in interstate commerce. Agricultural and vegetable seeds shipped in interstate commerce are required to be labeled with certain quality information such as the name of the seed, the purity, the germination, and the noxious-weed seeds of the state into which the seed is being shipped. State seed regulatory agencies refer to the Agricultural Marketing Service (AMS) complaints involving seed found to be mislabeled and to have moved in interstate commerce. AMS investigates the alleged violations and if the violation is substantiated, takes regulatory action ranging from letters of warning to monetary penalties. AMS will collect information from records of each lot of seed and make them available for inspection by agents of the Secretary.

Need and Use of the Information: The information collected consists of records pertaining to interstate shipments of seed which have been alleged to be in violation of the FSA. The shipper's records pertaining to a complaint are examined by FSA program specialists and are used to determine if a violation of the FSA occurred. The records are also used to determine if the precautions taken by the shipper assure that the seed was accurately labeled and determine the corrective steps that can be taken by the shipper to prevent future violations. The FSA program would be ineffective without the ability to examine pertinent records as necessary to resolve complaints of violations.

Description of Respondents: Business or other for-profit; farm.

Number of Respondents: 3,086.

Frequency of Responses: Recordkeeping; Reporting: On occasion.

Total Burden Hours: 27,946.

Agricultural Marketing Service

Title: Regulations Governing Inspection Certification of Fresh and Processed Fruits, Vegetables and Other Products—7 CFR part 51 and 52.

OMB Control Number: 0581–0125.

Summary of Collection: The Agricultural Marketing Service's (AMS) Fresh Products Division merged with the Processed Products Division. The newly combined program is named Specialty Crops Inspection Division (SCI Division). With the merger of these two Divisions, information collection 0581–0234 ''Domestic Origin Verification System (DOVS): Regulations Governing Inspection and Certification of Processed Fruits and Vegetables and Related Products'' is being merged into the renewal of 0581–0125 ''Regulations Governing Inspection, Certification, Standards, and Audit Services for Fresh and Processed Fruit, Vegetables, and Other Products,'' and re-titled ''Regulations Governing Inspection and Certification of Fresh and Processed Fruits, Vegetables and Other Products 7 CFR part 51 and 52.''

The Agricultural Marketing Act of 1946 as amended, (7 U.S.C. 1621–1627) directs and authorizes the Secretary of Agriculture to inspect, certify and identify the class, quantity, quality and condition of agricultural produces when shipped or received in interstate commerce, under such rules and regulations as the Secretary may prescribe, etc. The Secretary has delegated this authority to the AMS SCI Division. The SCI Division provides nationwide audit and inspection services for fresh and processed fruits, vegetables, and other products to growers, shippers, importers, processors, sellers, buyers, and other financially interested parties on a ''user fee'' basis.

Need and Use of the Information: The SCI Division collects information using various forms. This information includes: the name and location of the person or company shipping and receiving the product(s), the name and location of the person or company requesting the inspection, the date and time the inspection is requested to be performed, the type and location of the product to be inspected, the type of inspection being requested and any information that will identify the product. The information collected

provides services for inspection, grading, certification purposes, and other services to facilitate trading of agricultural products, e.g., providing import product inspections, export product inspections, contract and specification acceptance services, facility assessments, and certification of quantity and quality; verification and auditing; and developing standards for grades of products.

Description of Respondents: Business or other for profit.

Number of Respondents: 8,422.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 21,127.

Agricultural Marketing Service

Title: Seed Service Testing Program.

OMB Control Number: 0581–0140.

Summary of Collection: The Agricultural Marketing Act (AMA) of 1946, as amended by 7 U.S.C. 1621 authorizes the Secretary to inspect and certify the quality of agricultural products and collect such fees as reasonable to cover the cost of service rendered. The purpose of the voluntary program is to promote efficient, orderly marketing of seeds and assist in the development of new and expanding markets. Under the program, samples of agricultural and vegetable seeds submitted to the Agricultural Marketing Service (AMS) are tested for factors such as purity and germination at the request of the applicant for the service. The Testing Section of the Seed Regulatory and Testing Branch of AMS that test the seed and issues the certificates is the only Federal seed testing facility that can issue the Federal Seed Analysis Certificate.

Need and Use of the Information: Applicants generally are seed firms who use the seed analysis certificates to represent the quality of seed lots to foreign customers according to the terms specified in contracts of trade. The only information collected is information needed to provide the service requested by the applicant. Applicants must provide information such as the kind and quantity of seed, tests to be performed, and seed treatment if present, along with a sample of seed in order for AMS to provide the service. A Seed Analysis Certificate-Sample Inspection or ISTA orange International Seed Lot Certificate is issued by AMS giving the test results. Only authorized AMS employees use the information collected to track, test, and report test results to the applicant. If the information were not collected, AMS would not know which test to conduct or would not be able to relate the test results with a specific lot of seed.

Description of Respondents: Business or other for-profit; farms; State, Local or Tribal Government.

Number of Respondents: 76.

Frequency of Responses: Reporting; On occasion:

Total Burden Hours: 484.

Agricultural Marketing Service

Title: Softwood Lumber Research, Promotion, Consumer Education and Information Order.

OMB Control Number: 0581–0264.

Summary of Collection: The Order is authorized under the Commodity Promotion, Research, and Information Act of 1996 (7 U.S.C. 7411–7425). The Order provides for the development and financing of a coordinated program of research, promotion, and information for softwood lumber including projects relating to consumer information, advertising, sales promotion, market development and product research to assist, improve, or promote the marketing, distribution, and utilization of softwood lumber.

Need and Use of the Information: The program is administered by a Board appointed by the Secretary of Agriculture and financed by a mandatory assessment on domestic manufacturers and importers of softwood lumber. The information required under this program is gathered through several forms. The Agricultural Marketing Service provides oversight to ensure: (1) Funds are collected and properly accounted for; (2) expenditures of all funds are for the purposes authorized by the enabling legislation; and (3) the Board's administration of the program conforms to USDA policy.

Description of Respondents: Business or other for-profit; farms.

Number of Respondents: 1,478.

Frequency of Responses: Reporting: Annually, quarterly; recordkeeping.

Total Burden Hours: 1,871.

Charlene Parker,

Departmental Information Collection Clearance Officer.

[FR Doc. 2013–17130 Filed 7–16–13; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Forest Service

Virginia Resource Advisory Committee Meetings

AGENCY: Forest Service, USDA.

ACTION: Notice of meetings.

SUMMARY: The Virginia Resource Advisory Committee (RAC) will meet in Roanoke, Virginia on the dates listed below. The Committee is authorized under the Secure Rural Schools and Community Self-Determination Act of 2000 (the Act) (Pub. L. 112–141) and operates in compliance with the Federal Advisory Committee Act (FACA) (Pub. L. 92–463). The RAC's purposes are to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act. The meeting is open to the public. The purpose of the meeting is to prioritize and recommend projects for funding.

DATES: The meetings will be held every Friday between August 23, 2013, and September 27, 2013, from 10 a.m. to 6 p.m. (EST) Exact meeting dates are as follow:

1. August 23, 2013—10 a.m. to 6 p.m.
2. August 30, 2013—10 a.m. to 6 p.m.
3. September 6, 2013—10 a.m. to 6 p.m.
4. September 13, 2013—10 a.m. to 6 p.m.
5. September 20, 2013—10 a.m. to 6 p.m.
6. September 27, 2013—10 a.m. to 6 p.m.

All Resource Advisory Committee meetings are subject to change or cancellation. For status of Resource Advisory Committee meetings prior to attending each meeting, contact: Michael Williams, Public Affairs Specialist, Supervisor's Office, 540–265–5173, *mrwilliams04@fs.fed.us*.

ADDRESSES: The meeting will be held at the George Washington and Jefferson National Forests Supervisor's Office Conference Room at 5162 Valleypointe Parkway, Roanoke, Virginia. Written comments may be submitted as described under Supplementary Information listed below. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at the George Washington and Jefferson National Forests Supervisor's Office. Please call ahead to 540–265–5100 to facilitate entry into the building in order to view comments.

FOR FURTHER INFORMATION CONTACT: Michael Williams, Public Affairs Specialist, Supervisor's Office, 540–265–5173, *mrwilliams04@fs.fed.us*.

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Additional information on the Virginia Resource Advisory Committee can be found by visiting the George Washington and Jefferson National Forests' Web site at: *www.fs.fed.us/r8/gwj.* Anyone who would like to bring related matters to the attention of the Committee may file written statements with the Committee staff before or after the meeting. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing within one week of each scheduled meeting to be scheduled on the agenda. Written comments and requests for time for oral comments must be sent to Michael Williams, Public Affairs Specialist, George Washington and Jefferson National Forests, Supervisor's Office, 5162 Valleypointe Parkway, Roanoke, Virginia 24019; Email: *mrwilliams04@fs.fed.us*; or Facsimile: 540–265–5145.

A summary of the meeting will be posted at *www.fs.fed.us/r8/gwj* within 21 days of the meeting.

If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices, or other reasonable accommodations for access to the facility for proceedings by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All reasonable accommodation requests are managed on a case by case basis.

Dated: July 10, 2013.

H. Thomas Speaks, Jr.,

Forest Supervisor.

[FR Doc. 2013–17155 Filed 7–16–13; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Southern Montana Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice; Solicitation of Nominees.

SUMMARY: In accordance with the Secure Rural Schools and Community Self-Determination Act (Pub. L. 110–343) (the Act), and the Federal Advisory Committee Act, (FACA) (5 U.S.C., App. 2), the Southern Montana Resource Advisory Committee (RAC) announces the solicitation of nominees to fill vacancies. The purpose of the RAC is to improve collaborative relationships, to advise, and provide recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act.

DATES: Nominations must be received on or before August 16, 2013. Nominations must contained a completed application packet that includes following:

(1) Nominee's name,

(2) resume,

(3) completed Form AD–755, and

(4) Advisory Committee or Research and Promotion Background Information.

The package must be sent to the address listed below.

ADDRESSES: Mariah Leuschen, USDA Forest Service, Custer Supervisor's Office, 1310 Main Street, Billings, MT 59105. Telephone Number: (406) 255–1411.

FOR FURTHER INFORMATION CONTACT: Mariah Leuschen, Public Affairs Specialist/Gallatin and Southern Montana RAC Coordinator, USDA Forest Service, Custer and Gallatin National Forests, Telephone: (406) 255–1411, Email: *mdleuschen@fs.fed.us.*

SUPPLEMENTARY INFORMATION:

Background

The Act was reauthorized on July 6, 2012, to require each potentially eligible county to elect to receive a share of the State payment or a share of the State's 25-percent payment. Title II of the Act calls for local RACs to review, recommend, and monitor special projects on national forests. The purpose of each RAC is to improve collaborative relationships among the people that use and care for the national forests and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act. The duties of the committee include monitoring projects, advising the Secretary on the progress and results of the monitoring efforts, and making recommendations to the Forest Service for any appropriate changes or adjustments to the projects being monitored by the RAC.

Southern Montana RAC Membership

The RAC will be comprised of 15 members approved by the Secretary of Agriculture. RAC membership will be fairly balanced in terms of the points of view represented and functions to be performed. The RAC members will serve 4-year terms.

The RAC shall include representation in the following areas:

(1) Five persons who:

(a) represent organized labor or non-timber forest product harvester groups,

(b) represent developed outdoor recreation, off-highway vehicle users, or commercial recreation activities,

(c) represent energy and mineral development, or commercial or recreational fishing interests,

(d) represent commercial timber industry, or

(e) hold Federal grazing permits or other land use permits or represent non-industrial private forest land owners within the area for which the committee is organized.

(2) Five persons who represent:

i. nationally recognized environmental organizations,

ii. regionally or locally recognized environmental organizations,

iii. dispersed recreational activities,

iv. archaeological and historical interests, or

v. nationally or regionally recognized wild horse and burro interest groups, wildlife or hunting organizations, or watershed associations.

(3) Five persons who:

i. hold State elected office (or a designee),

ii. hold county or local elected office,

iii. represent American Indian tribes within or adjacent to the area for which the committee is organized,

iv. represent school officials or teachers, or

v. represent the affected public-at-large.

In the event that a vacancy arises, the Designated Federal Officer (DFO) may fill the vacancy with a replacement member appointed by the Secretary, if an appropriate replacement member is available.

Nominations and Applications Information

The appointment of members to the RAC will be made by the Secretary of Agriculture. Any individual or organization may nominate one or more qualified persons to represent the vacancies listed above. To be considered for membership, nominees must:

1. Identify what vacancy they would represent and how they are qualified to represent that vacancy,

2. state why they want to serve on the RAC and what they can contribute,

3. show their past experience in working successfully as part of a working group on forest management activities,

4. complete Form AD–755, Advisory Committee or Research and Promotion Background Information.

You may contact the person listed above or retrieve Form AD–755 from the following Web site: *http://www.usda.gov/documents/OCIO_AD_755_Master_2012.pdf.* All nominations will be vetted by the Agency.

Equal opportunity practices, in line with the USDA policies, will be

followed in all appointments to the RACs. To ensure that the recommendations of the RACs have been taken into account the needs of the diverse groups served by the Departments, membership should include, to the exten practicable, individuals with demonstrated ability to represent minorities, women, and persons with disabilities.

Dated: July 9, 2013.

Gregory Parham,

Assistant Secretary of Administration.

[FR Doc. 2013–17040 Filed 7–16–13; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Gallatin County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice; solicitation of nominees.

SUMMARY: In accordance with the Secure Rural Schools and Community Self-Determination Act (Pub. L. 110–343) (the Act), and the Federal Advisory Committee Act, (FACA) (5 U.S.C., App. 2), the Southern Montana Resource Advisory Committee (RAC) announces the solicitation of nominees to fill vacancies. The purpose of the RAC is to improve collaborative relationships, to advise, and provide recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act.

DATES: Nominations must be received on or before August 16, 2013. Nominations must contained a completed application packet that includes following:

(1) Nominee's name,

(2) resume,

(3) completed Form AD–755, and

(4) Advisory Committee or Research and Promotion Background Information.

The package must be sent to the address listed below.

ADDRESSES: Mariah Leuschen, USDA Forest Service, Custer Supervisor's Office, 1310 Main Street, Billings, MT 59105. Telephone Number: (406) 255–1411.

FOR FURTHER INFORMATION CONTACT: Mariah Leuschen, Public Affairs Specialist/Gallatin and Southern Montana RAC Coordinator, USDA Forest Service, Custer and Gallatin National Forests, Telephone: (406) 255–1411, Email: *mdleuschen@fs.fed.us.*

SUPPLEMENTARY INFORMATION:

Background

The Act was reauthorized on July 6, 2012, to require each potentially eligible county to elect to receive a share of the State payment or a share of the State's 25-percent payment. Title II of the Act calls for local RACs to review, recommend, and monitor special projects on national forests. The purpose of each RAC is to improve collaborative relationships among the people that use and care for the national forests and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act. The duties of the committee include monitoring projects, advising the Secretary on the progress and results of the monitoring efforts, and making recommendations to the Forest Service for any appropriate changes or adjustments to the projects being monitored by the RAC.

Gallatin County RAC Membership

The RAC will be comprised of 15 members approved by the Secretary of Agriculture. RAC membership will be fairly balanced in terms of the points of view represented and functions to be performed. The RAC members will serve 4-year terms.

The RAC shall include representation in the following areas:

(1) Five persons who:

(a) Represent organized labor or non-timber forest product harvester groups,

(b) represent developed outdoor recreation, off-highway vehicle users, or commercial recreation activities,

(c) represent energy and mineral development, or commercial or recreational fishing interests,

(d) represent commercial timber industry, or

(e) hold Federal grazing permits or other land use permits or represent non-industrial private forest land owners within the area for which the committee is organized.

(2) Five persons who represent:

i. Nationally recognized environmental organizations,

ii. regionally or locally recognized environmental organizations,

iii. dispersed recreational activities,

iv. archaeological and historical interests, or

v. nationally or regionally recognized wild horse and burro interest groups, wildlife or hunting organizations, or watershed associations.

(3) Five persons who:

i. Hold State elected office (or a designee),

ii. hold county or local elected office,

iii. represent American Indian tribes within or adjacent to the area for which the committee is organized,

iv. represent school officials or teachers, or

v. represent the affected public-at-large.

In the event that a vacancy arises, the Designated Federal Officer (DFO) may fill the vacancy with a replacement member appointed by the Secretary, if an appropriate replacement member is available.

Nominations and Applications Information

The appointment of members to the RAC will be made by the Secretary of Agriculture. Any individual or organization may nominate one or more qualified persons to represent the vacancies listed above. To be considered for membership, nominees must:

1. Identify what vacancy they would represent and how they are qualified to represent that vacancy,

2. state why they want to serve on the RAC and what they can contribute,

3. show their past experience in working successfully as part of a working group on forest management activities,

4. complete Form AD–755, Advisory Committee or Research and Promotion Background Information.

You may contact the person listed above or retrieve Form AD–755 from the following Web site: *http://www.usda.gov/documents/OCIO_AD_755_Master_2012.pdf.* All nominations will be vetted by the Agency.

Equal opportunity practices, in line with the USDA policies, will be followed in all appointments to the RACs. To ensure that the recommendations of the RACs have been taken into account the needs of the diverse groups served by the Departments, membership should include, to the exten practicable, individuals with demonstrated ability to represent minorities, women, and persons with disabilities.

Dated: July 9, 2013.

Gregory Parham,

Assistant Secretary of Administration.

[FR Doc. 2013–17046 Filed 7–16–13; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Notice of Request for Extension of a Currently Approved Information Collection

AGENCY: Rural Housing Service, USDA.

ACTION: Proposed collection; Comments requested.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Rural Housing Service's intention to request an extension for a currently approved information collection in support of the program for Rural Housing Loans.

DATES: Comments on this notice must be received by September 16, 2013 to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: Debra A. Terrell, Senior Loan Specialist, Single Family Housing Guaranteed Loan Division, Rural Housing Service, Stop 0784, 1400 Independence Ave. SW., Washington, DC 20250–0784; Telephone: (202) 720–1452 or (918) 534–3254; Email: *debra.terrell@wdc.usda.gov.*

SUPPLEMENTARY INFORMATION:

Title: Rural Housing Loans.

OMB Number: 0575–0078.

Expiration Date of Approval: September 30, 2013.

Type of Request: Extension of a currently approved information collection.

Abstract: The Rural Housing Service (RHS) is authorized under Section 517(d) of Title V of the Housing Act of 1949, as amended, to issue loan guarantees for the acquisition of new or existing dwellings and related facilities to provide decent, safe, and sanitary living conditions and other structures in rural areas by eligible recipients.

The Act also authorizes the Secretary to pay the holder of a guaranteed loan the difference between the rate of interest paid by the borrower and the market rate of interest.

The purpose of the program is to assist low and moderate income individuals and families acquire or construct a single family residence in a rural area with loans made by private lenders. Eligibility for this program includes low and moderate income families or persons whose income does not exceed 115 percent of the median income for the area, as determined by the Secretary.

The Guaranteed Rural Housing (GRH) program was authorized under the Cranston-Gonzalez National Affordable Housing Act, and the Agency issued a final rule implementing the GRH program on April 17, 1991, before departmental reorganization. The program began as a pilot program in 20 States on May 17, 1991. In 1992, the GRH program was offered on a nationwide basis. During the implementation process, the Agency looked for ways to improve the program and make it more user friendly.

The Agency recognized the need to make its program even more compatible with the existing structure of the mortgage lending community. On May 22, 1995, the Agency published a final rule incorporating the needed changes to encourage greater participation by lenders and the secondary market for mortgage loans.

The information requested by the Agency includes borrower financial information such as household income, assets and liabilities, and monthly expenses. All information collected is vital for the Agency to determine if borrowers qualify for and assure they receive all assistance for which they are eligible. Information requested on lenders is required to ensure lenders are eligible to participate in the GRH program. Lender requirements are in compliance with OMB Circular A–129.

Congress passed Public Law 111–212, Supplemental Disaster Relief and Summer Jobs Act of 2010 (H.R. 4899) which authorized the Agency to assess an annual fee in an effort to maintain a budget-neutral loan program. Effective in fiscal year 2011, the Agency began assessing an annual fee against newly closed guaranteed loans.

To support collection of the annual fee the program introduced an electronic method for lenders to pay the annual fee through the Guaranteed Annual Fee (GAF) system. This new Web-based system allows loan servicers to authorize pre-authorized debit (PAD) payments as well as review annual fee advance notice, billing, and payment reconciliation details for guaranteed loans that they service.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average .85 hours per response.

Respondents: Individuals or households and business or other for-profits.

Estimated Number of Respondents: 154,197.

Estimated Number of Responses per Respondent: 6.7.

Estimated Number of Responses: 1,030,338.

Estimated Total Annual Burden on Respondents: 881,261 hours.

Copies of this information collection can be obtained from Jeanne Jacobs, Regulations and Paperwork Management Branch, at (202) 692–0040.

Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of RHS, including whether the information will have practical utility; (b) the accuracy of RHS's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to Jeanne Jacobs, Branch Chief, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, Rural Development, 7th Floor, Reporters Building, 300 7th St SW., Washington, DC 20024. All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: June 28, 2013.

Tammye Treviño,

Administrator, Rural Housing Service.

[FR Doc. 2013–17128 Filed 7–16–13; 8:45 am]

BILLING CODE 3410–XV–P

COMMISSION ON CIVIL RIGHTS

Sunshine Act Notice

AGENCY: United States Commission on Civil Rights.

ACTION: Notice of telephonic meeting.

DATE AND TIME: Sunday, July 21, 2013; 8:00 p.m. ET.

PLACE: Via Teleconference, Public Dial In: 1-(800) 967–7154, Conference ID # 150–561.

Meeting Agenda

This meeting is open to the public, except where noted otherwise.

I. Program Planning

II. Discussion and Approval of Part B: Findings and Recommendations for the 2013 Statutory Enforcement Report—Sexual Assault in the Military

III. Adjourn

CONTACT PERSON FOR FURTHER INFORMATION: Lenore Ostrowsky, Acting Chief, Public Affairs Unit (202) 376–8591. TDD: (202) 376–8116.

Persons with a disability requiring special services, such as an interpreter for the hearing impaired, should contact Pamela Dunston at least seven days prior to the meeting at 202–376–8105. TDD: (202) 376–8116.

Dated: July 12, 2013.

David Mussatt,

Acting RPCU Chief.

[FR Doc. 2013–17207 Filed 7–15–13; 11:15 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Pacific Coast Groundfish Fishery Rationalization Social Study.

OMB Control Number: 0648–0606.

Form Number(s): NA.

Type of Request: Regular submission (revision and extension of a current information collection).

Number of Respondents: 623.

Average Hours per Response: Surveys and meetings with stakeholders, 1 hour; interviews, 30 minutes.

Burden Hours: 394.

Needs and Uses: This request is for a revision and extension of a currently approved information collection. The revision consists of minor changes to the information collection tool.

Historically, changes in fisheries management regulations have been shown to result in impacts to individuals within the fishery. An understanding of social impacts in fisheries—achieved through the collection of data on fishing communities, as well as on individuals who fish—is a requirement under several federal laws. Laws such as the National Environmental Protection Act and the Magnuson Stevens Fishery Conservation Act (as amended 2007) describe such requirements. The collection of this data not only helps to inform legal requirements for the existing management actions, but will inform future management actions requiring equivalent information.

Literature indicates fisheries rationalization programs have an impact on those individuals participating in the affected fishery. The Pacific Fisheries Management Council implemented a new rationalization program for the Pacific Coast Groundfish limited entry trawl fishery in January 2011. This research aims to continue to study the individuals in the affected fishery after the implementation of the rationalization program. Data collected is correlated to changes in the programs' design elements. In addition, the study will compare results to previous data collection efforts in 2010 and 2012.

Affected Public: Business or other for-profit organizations; individuals or households; not-for-profit institutions.

Frequency: Intermittently or biannually.

Respondent's Obligation: Voluntary.

OMB Desk Officer: *OIRA_Submission@omb.eop.gov.*

Copies of the above information collection proposal can be obtained by calling or writing Jennifer Jessup, Departmental Paperwork Clearance Officer, (202) 482–0336, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *JJessup@doc.gov).*

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov.*

Dated: July 11, 2013.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2013–17144 Filed 7–16–13; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Economic Development Administration

Notice of Petitions by Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration, Department of Commerce.

ACTION: Notice and opportunity for public comment.

Pursuant to Section 251 of the Trade Act 1974, as amended (19 U.S.C. 2341 et seq.), the Economic Development Administration (EDA) has received petitions for certification of eligibility to apply for Trade Adjustment Assistance from the firms listed below. Accordingly, EDA has initiated investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each of these firms contributed importantly to the total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

LIST OF PETITIONS RECEIVED BY EDA FOR CERTIFICATION ELIGIBILITY TO APPLY FOR TRADE ADJUSTMENT ASSISTANCE

[6/18/2013 through 07/11/2013]

Firm name	Firm address	Date accepted for investigation	Product(s)
New England Plasma Development Corporation.	14 Highland Drive, Putnam, CT 6260	6/19/2013	The firm provides component part thermal spray coatings, shot peen, machining and grinding.
SmartPlug Systems, LLC	2288 W. Commodore Way Suite 300, Seattle, WA 98199.	7/11/2013	The firm manufactures shore power systems, both inlet and connectors for 30 and 50 amps.
Orchard Wood Products, Inc.	2747 Place St, Baker City, OR 97814	7/10/2013	The firm manufactures lineal molding, wooden toys, craft parts; box and component parts.
BASIC Engineering, P.C. (dba BASICSAFE).	239 SW 3rd Street, Fruitland, ID 83619	7/11/2013	Firm produces the BASICSAFE suite of safety management software.

Any party having a substantial interest in these proceedings may request a public hearing on the matter. A written request for a hearing must be submitted to the Trade Adjustment Assistance for Firms Division, Room 71030, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no

later than ten (10) calendar days following publication of this notice.

Please follow the requirements set forth in EDA's regulations at 13 CFR 315.9 for procedures to request a public hearing. The Catalog of Federal Domestic Assistance official number and title for the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance for Firms.

Dated: July 11, 2013.

Michael DeVillo,

Eligibility Examiner.

[FR Doc. 2013–17156 Filed 7–16–13; 8:45 am]

BILLING CODE 3510–WH–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Materials Technical Advisory Committee; Notice of Partially Closed Meeting

The Materials Technical Advisory Committee will meet on August 8, 2013, 10:00 a.m., Herbert C. Hoover Building, Room 3884, 14th Street between Constitution & Pennsylvania Avenues NW., Washington, DC The Committee advises the Office of the Assistant Secretary for Export Administration with respect to technical questions that affect the level of export controls applicable to materials and related technology.

Agenda

Open Session

1. Opening Remarks and Introductions.
2. Remarks from BIS senior management and export control reform update including the proposed Routed Export Transactions and Spacecraft Items.
3. Presentation ''Beyond Compliance: Nonproliferation and the Private Sector.''
4. Report of Composite Working Group and discussion on (1) feasibility of universal test for modulus and tensile strength for 1C010 and other ECCNs (2) reclassification of fiber-filled pellets (3) LVS values for 1C008–10,1C210, and 1C990.
5. Report of Biological and Pump/Valves Working Group.
6. Report on regime-based activities.
7. Update Feedback.
8. Public Comments and New Business.
9. Closed session to follow.

Closed Session

10. Discussion of matters determined to be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ l0(a)(1) and 10(a)(3).

The open session will be accessible via teleconference to 20 participants on a first come, first serve basis. To join the conference, submit inquiries to Ms. Yvette Springer at *Yvette.Springer@bis.doc.gov,* no later than August 1, 2013.

A limited number of seats will be available during the public session of the meeting. Reservations are not accepted. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting. However, to facilitate distribution of public presentation materials to Committee members, the materials should be forwarded prior to the meeting to Ms. Springer via email.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on October 2, 2012, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. app. 2 § 10(d)), that the portion of the meeting dealing with pre-decisional changes to the Commerce Control List and the U.S. export control policies shall be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 § § 10(a)(1) and 10(a)(3). The remaining portions of the meeting will be open to the public.

For more information, call Yvette Springer at (202) 482–2813.

Dated: July 11, 2013.

Yvette Springer,

Committee Liaison Officer.

[FR Doc. 2013–17168 Filed 7–16–13; 8:45 am]

BILLING CODE 3510–JT–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Information Systems Technical Advisory Committee; Notice of Partially Closed Meeting

The Information Systems Technical Advisory Committee (ISTAC) will meet on July 31 and August 1, 2013, 9:00 a.m., in the Herbert C. Hoover Building, Room 3884, 14th Street between Constitution and Pennsylvania Avenues NW., Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration on technical questions that affect the level of export controls applicable to information systems equipment and technology.

Wednesday, July 31

Open Session:

1. Welcome and Introductions
2. Elections of Chairs
3. Working Group Reports
4. Industry presentation: Acoustic Modems
5. New business

Thursday, August 1

Closed Session

6. Discussion of matters determined to be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)(1) and 10(a)(3).

The open session will be accessible via teleconference to 20 participants on a first come, first serve basis. To join the conference, submit inquiries to Ms. Yvette Springer at *Yvette.Springer@bis.doc.gov*, no later than July 24, 2013.

A limited number of seats will be available for the public session. Reservations are not accepted. To the extent time permits, members of the public may present oral statements to the Committee. The public may submit written statements at any time before or after the meeting. However, to facilitate distribution of public presentation materials to Committee members, the Committee suggests that public presentation materials or comments be forwarded before the meeting to Ms. Springer.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on April 4, 2013, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. app. 2 § (10)(d))), that the portion of the meeting concerning trade secrets and commercial or financial information deemed privileged or confidential as described in 5 U.S.C. 552b(c)(4) and the portion of the meeting concerning matters the disclosure of which would be likely to frustrate significantly implementation of an agency action as described in 5 U.S.C. 552b(c)(9)(B) shall be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)(1) and 10(a)(3). The remaining portions of the meeting will be open to the public.

For more information, call Yvette Springer at (202) 482–2813.

Dated: July 11, 2013.

Yvette Springer,

Committee Liaison Officer.

[FR Doc. 2013–17165 Filed 7–16–13; 8:45 am]

BILLING CODE 3510–JT–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Materials Processing Equipment Technical Advisory Committee; Notice of Partially Closed Meeting

The Materials Processing Equipment Technical Advisory Committee (MPETAC) will meet on August 20, 2013, 9:00 a.m., Room 3884, in the Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenues NW., Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration with respect to technical questions that affect the level of export controls applicable to materials processing equipment and related technology.

Agenda

Open Session

1. Opening remarks and introductions.
2. Presentation of papers and comments by the Public.
3. Discussions on results from last, and proposals for next Wassenaar meeting.
4. Report on proposed and recently issued changes to the Export Administration Regulations.
5. Other business.

Closed Session

6. Discussion of matters determined to be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)(1) and 10(a)(3).

The open session will be accessible via teleconference to 20 participants on a first come, first serve basis. To join the conference, submit inquiries to Ms. Yvette Springer at *Yvette.Springer@bis.doc.gov,* no later than August 13, 2013.

A limited number of seats will be available for the public session. Reservations are not accepted. To the extent that time permits, members of the public may present oral statements to the Committee. The public may submit written statements at any time before or after the meeting. However, to facilitate the distribution of public presentation materials to the Committee members, the Committee suggests that presenters forward the public presentation materials prior to the meeting to Ms. Springer via email.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on February 20, 2013, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. app. 2 § 10(d)), that the portion of the meeting dealing with matters the premature disclosure of which would be likely to frustrate significantly implementation of a proposed agency action as described in 5 U.S.C. 552b(c)(9)(B) shall be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)(1) and 10(a)(3). The remaining portions of the meeting will be open to the public.

For more information, call Yvette Springer at (202) 482–2813.

Dated: July 11, 2013.

Yvette Springer,

Committee Liaison Officer.

[FR Doc. 2013–17164 Filed 7–16–13; 8:45 am]

BILLING CODE 3510–JT–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–908]

Sodium Hexametaphosphate From the People's Republic of China: Continuation of Antidumping Duty Order

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: As a result of the determinations by the Department of Commerce (the ''Department'') and the International Trade Commission (the ''ITC'') that revocation of the antidumping duty order on sodium hexametaphosphate (''sodium hex'') from the People's Republic of China (''PRC'') would likely lead to a continuation or recurrence of dumping and material injury to an industry in the United States, the Department is publishing a notice of continuation of the antidumping duty order.

DATES: *Effective Date:* July 17, 2013.

FOR FURTHER INFORMATION CONTACT: Paul Walker, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: 202.482.0413.

SUPPLEMENTARY INFORMATION:

Background

On February 1, 2013, the Department initiated a sunset review of the antidumping duty order on sodium hex from the PRC, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the ''Act'').[1] As a result of its review, the Department determined that revocation of the antidumping duty order on sodium hex from the PRC would likely lead to a continuation or recurrence of dumping and, therefore, notified the ITC of the magnitude of the margins likely to prevail should the order be revoked.[2] On July 5, 2013, the ITC published its determination, pursuant to section 751(c) of the Act, that revocation of the antidumping duty order on sodium hex from the PRC would likely lead to a continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[3]

Scope of the Order

The merchandise subject to the order is sodium hexametaphosphate. Sodium hexametaphosphate is a water-soluble polyphosphate glass that consists of a distribution of polyphosphate chain lengths. It is a collection of sodium polyphosphate polymers built on repeating $NaPO_3$ units. Sodium hexametaphosphate has a P_2O_5 content from 60 to 71 percent. Alternate names for sodium hexametaphosphate include the following: Calgon; Calgon S; Glassy Sodium Phosphate; Sodium Polyphosphate, Glassy; Metaphosphoric Acid; Sodium Salt; Sodium Acid Metaphosphate; Graham's Salt; Sodium Hex; Polyphosphoric Acid, Sodium Salt; Glass H; Hexaphos; Sodaphos; Vitrafos; and BAC–N–FOS. Sodium hexametaphosphate is typically sold as a white powder or granule (crushed) and may also be sold in the form of sheets (glass) or as a liquid solution. It is imported under heading 2835.39.5000, Harmonized Tariff Schedule of the United States (''HTSUS''). It may also be imported as a blend or mixture under heading 3824.90.3900, HTSUS. The American Chemical Society, Chemical Abstract Service (''CAS'') has assigned the name ''Polyphosphoric Acid, Sodium Salt'' to sodium hexametaphosphate. The CAS registry number is 68915–31–1. However, sodium hexametaphosphate is commonly identified by CAS No. 10124–56–8 in the market. For purposes of the order, the narrative description is dispositive, not the tariff heading, CAS registry number or CAS name.

The product covered by the order includes sodium hexametaphosphate in

[1] *See Initiation of Five-Year (''Sunset'') Review,* 78 FR 7400 (February 1, 2013).

[2] *See Sodium Hexametaphosphate from the People's Republic of China: Final Results of Expedited First Sunset Review of the Antidumping Duty Order,* 78 FR 34989 (June 11, 2013).

[3] *See Sodium Hexametaphosphate from China: Determination,* 78 FR 40505 (July 5, 2013); *see also Sodium Hexametaphosphate from China: Investigation No. 731–TA–1110,* USITC Publication 4410 (June 2013).

all grades, whether food grade or technical grade. The product covered by the order includes sodium hexametaphosphate without regard to chain length, *i.e.,* whether regular or long chain. The product covered by the order includes sodium hexametaphosphate without regard to physical form, whether glass, sheet, crushed, granule, powder, fines, or other form, and whether or not in solution.

However, the product covered by the order does not include sodium hexametaphosphate when imported in a blend with other materials in which the sodium hexametaphosphate accounts for less than 50 percent by volume of the finished product.

Continuation of the Order

As a result of the determinations by the Department and the ITC that revocation of the antidumping duty order would likely lead to a continuation or recurrence of dumping and material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act, the Department hereby orders the continuation of the antidumping order on sodium hex from the PRC. U.S. Customs and Border Protection will continue to collect antidumping duty cash deposits at the rates in effect at the time of entry for all imports of subject merchandise. The effective date of the continuation of the order will be the date of publication in the **Federal Register** of this notice of continuation. Pursuant to section 751(c)(2) of the Act, the Department intends to initiate the next five-year review of the order not later than 30 days prior to the fifth anniversary of the effective date of continuation.

This five-year (''sunset'') review and this notice are in accordance with section 751(c) of the Act and published pursuant to section 777(i)(1) of the Act.

Dated: July 11, 2013.

Paul Piquado,

Assistant Secretary for Import Administration.

[FR Doc. 2013–17158 Filed 7–16–13; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Natural Resource Damage Assessment Restoration Project Information Sheet

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before September 16, 2013.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *JJessup@doc.gov).*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Perry Gayaldo, (301) 427–8665 or *Perry.Gayaldo@noaa.gov*.

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for an extension of a currently approved information collection.

The purpose of this information collection is to assist state and federal Natural Resource Trustees in more efficiently carrying out the restoration planning phase of Natural Resource Damage Assessments (NRDA), in compliance with the National Environmental Policy Act of 1969, 42 U.S.C. 4321–4370d; 40 CFR parts 1500–1500 and other federal and local statutes and regulations as applicable. The NRDA Restoration Project Information Sheet is designed to facilitate the collection of information on existing, planned, or proposed restoration projects. This information will be used by the Natural Resource Trustees to develop potential restoration alternatives for natural resource injuries and service losses requiring restoration, during the restoration planning phase of the NRDA process.

II. Method of Collection

The Restoration Project Information Sheet can be submitted on paper through the mail or faxed, or can be submitted electronically via the Internet or email.

III. Data

OMB Control Number: 0648–0497.

Form Number: None.

Type of Review: Regular submission (extension of a current information collection).

Affected Public: State, local, or tribal governments; individuals or households; business or other for-profits organizations; not-for-profit institutions; farms; and the federal government.

Estimated Number of Respondents: 1,800.

Estimated Time per Response: 20 minutes.

Estimated Total Annual Burden Hours: 660.

Estimated Total Annual Cost to Public: $0 in recordkeeping/reporting costs.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: July 11, 2013.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2013–17143 Filed 7–16–13; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC760

Gulf of Mexico Fishery Management Council; Public Hearings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; public hearings.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will hold public hearings for Coastal Migratory Pelagics (CMP) Amendments 19 and 20, and Reef Fish Amendment 39—Regional Management of Recreational Red Snapper.

DATES: The public hearings will be held from Thursday, August 1 through Friday August 15, 2013 at ten locations throughout the Gulf of Mexico. The public hearings will begin at 6 p.m. and will conclude no later than 9 p.m. The first public hearing will be a ''call-in session'' for Reef Fish Amendment 39—Regional Management of Recreational Red Snapper, Thursday, August 1, 2013; instructions will be available on our Web site. For specific dates and locations see **SUPPLEMENTARY INFORMATION** below.

ADDRESSES:

Meeting address: The public hearings will be held in the following locations: St. Petersburg, Key West, and Panama City, FL; Grand Isle and Baton Rouge, LA; D' Iberville, MS; Mobile, AL; Corpus Christi and Texas City, TX.

Council address: Gulf of Mexico Fishery Management Council, 2203 North Lois Avenue, Suite 1100, Tampa, FL 33607.

FOR FURTHER INFORMATION CONTACT: Mr. Douglas Gregory, Executive Director, Gulf of Mexico Fishery Management Council; telephone: (813) 348–1630; fax: (813) 348–1711; email: *doug.gregory@gulfcouncil.org.*

SUPPLEMENTARY INFORMATION: The items of discussion in the public hearings are as follows:

Public Hearings: Reef Fish Amendment 39—Regional Management of Recreational Red Snapper

1. Consider the delegation of authority for some aspects of red snapper management to the states or regions.
2. Apportioning the federal recreational red snapper quota among states or regions.
3. Management measures which may be modified at state or regional level including season structure, bag limits, size limits, closed areas, and sub-allocations.
4. Process and requirements for delegation, including default management measures.
5. Under regional management, red snapper would remain a federally managed species subject to federal conservation goals, and the Council would continue to oversee management of the stock.

Public Hearings: Coastal Migratory Pelagics Amendments 19 and 20—Sale and Permit Provisions and Modifications to the CMP Zone Management

1. Amendment 19 addresses sale and permit provisions for Gulf of Mexico Spanish and king mackerel.
2. Amendment 20 addresses season length, transit provisions, allocation, and framework procedures for coastal migratory pelagics.

The public hearings will begin at 6 p.m. and conclude at the end of public testimony or no later than 9 p.m. at the following locations:

Thursday, August 1, 2013, call-in session; visit *www.GulfCouncil.org* for instructions.

Monday, August 5, 2013, Courtyard Marriott, 11471 Cinema Drive, D' Iberville, MS 39540, telephone: (228) 392–1200.

Tuesday, August 6, 2013, (CMP only) Holiday Inn Select, 2001 N. Cove Boulevard, Panama City, FL 32405, telephone: (850) 769–0000.

Wednesday, August 7, 2013, (Regional Management only) Holiday Inn Select, 2001 N. Cove Boulevard, Panama City, FL 32405, telephone: (850) 769–0000.

Thursday, August 8, 2013, Renaissance Mobile Riverview Plaza Hotel, 64 South Water Street, Mobile, AL 36602, telephone: (251) 438–4000.

Monday, August 12, 2013, Hilton St. Petersburg Carillon Parkway, 950 Lake Carillon Drive, St. Petersburg, FL 33716, telephone: (727) 540–0050; Hilton Garden Inn, 6717 South Padre Island Drive, Corpus Christi, TX 78412, telephone: (361) 991–8200.

Tuesday, August 13, 2013, Hampton Inn & Suites, 2320 Gulf Freeway South, League City, TX 77573, telephone: (281) 614–5437.

Wednesday, August 14, 2013, (Regional Management only), DoubleTree, 4964 Constitution Avenue, Baton Rouge, LA 70808, telephone: (225) 925–1005.

Thursday, August 15, 2013, (CMP only) Louisiana Wildlife & Fisheries Lab, 195 Ludwig Lane, Grand Isle, LA 70358, telephone: (985) 787–2163; (CMP only) Harvey Government Center, 1200 Truman Avenue, Key West, FL 33040, telephone: (305) 292–4431.

Copies of the public hearing documents can be obtained by calling (813) 348–1630 or visiting *www.GulfCouncil.org.*

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during these hearings. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

These hearings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kathy Pereira at the Council Office (see **ADDRESSES**), at least 5 working days prior to the meeting.

Note: The times and sequence specified in this agenda are subject to change.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: July 12, 2013.

Tracey L. Thompson,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2013–17115 Filed 7–16–13; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XA122

Marine Mammals; File No. 14330

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; receipt of application for permit amendment.

SUMMARY: Notice is hereby given that the Aleut Community of St. Paul Island, Tribal Government, Ecosystem Conservation Office, St. Paul Island, AK, has applied for an amendment to Scientific Research Permit No. 14330–01.

DATES: Written, telefaxed, or email comments must be received on or before August 16, 2013.

ADDRESSES: The application and related documents are available for review by selecting ''Records Open for Public Comment'' from the *Features* box on the Applications and Permits for Protected Species home page, *https://apps.nmfs.noaa.gov,* and then selecting File No. 14330 from the list of available applications.

These documents are also available upon written request or by appointment in the following office(s):

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427–8401; fax (301) 713–0376; and

Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668; phone (907) 586–7221; fax (907) 586–7249.

Written comments on this application should be submitted to the Chief, Permits, Conservation and Education Division, at the address listed above. Comments may also be submitted by

facsimile to (301) 713–0376, or by email to *NMFS.Pr1Comments@noaa.gov.* Please include the File No. in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request to the Chief, Permits, Conservation and Education Division at the address listed above. The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Tammy Adams or Amy Sloan, (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject amendment to Permit No. 14330–01 is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR 222–226).

Permit No. 14330, issued on August 17, 2009 (74 FR 44822), authorized the permit holder to conduct activities to fulfill their Biosampling, Disentanglement, and Island Sentinel program responsibilities as established under the co-management agreement between NMFS and the Aleut Communities. The activities would result in incidental disturbance of northern fur seals (*Callorhinus ursinus*) on St. Paul Island, Alaska, during (1) disentanglement events, (2) the collection of biological samples from dead stranded and subsistence hunted marine mammals, and (3) haulout and rookery observations, monitoring, and remote camera maintenance. Samples may be exported to researchers studying the decline of northern fur seals. Steller sea lions (*Eumetopias jubatus*) and harbor seals (*Phoca vitulina*) may be disturbed during the course of these activities. The permit also allowed research-related mortality of northern fur seals.

The permit was amended upon request of the permit holder on March 29, 2011 (76 FR 329), to include authorization for harassment of additional Steller sea lions and harbor seals on St. Paul, St. George, Otter, and Walrus Islands, and Sea Lion Rock, all of the Pribilof Island group in the Bering Sea. The amendment was to annually harass the following during collection of scat samples to be used for characterizing the diet of marine mammals in the region: 100 adult female Steller sea lions, 500 adult male Steller sea lions, 1400 juvenile male Steller sea lions, 100 male and female Steller sea lion pups, 100 adult female harbor seals, 100 adult male harbor seals, 100 male and female juvenile harbor seals, and 100 male and female harbor seal pups. The amendment is valid for the duration of the permit, which expires on August 31, 2014.

The permit holder is requesting a second amendment to: (1) Add new habitat use studies; (2) increase numbers of animals taken by incidental disturbance; (3) consolidate existing takes of certain age and sex categories and for studies with similar types of incidental disturbance; and (4) extend the permit for one year. The amendment would add harassment takes of 6,450 non-pup northern fur seals and 1,600 northern fur seal pups annually.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activities proposed are consistent with the Preferred Alternative in the Final Programmatic Environmental Impact Statement (PEIS) for Steller Sea Lion and Northern Fur Seal Research (NMFS 2007), and that issuance of the permit amendment would not have a significant adverse impact on the human environment.

As established under the Preferred Alternative, NMFS proposes to authorize annual cumulative research-related mortality (under this permit in combination with any others for research on Steller sea lions) of up to 15 percent of the Potential Biological Removal levels for each stock. These annual allowances would include observed and unobserved mortalities, and be calculated based on the nature of the research. The numbers of research-related mortalities permitted for this amendment may be higher or lower than those requested by the applicant, based on NMFS calculations using the methods outlined in the PEIS.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: July 12, 2013.

P. Michael Payne,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2013–17151 Filed 7–16–13; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC541

Marine Mammals; File No. 17411

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; issuance of permit.

SUMMARY: Notice is hereby given that a permit has been issued to Dr. Jennifer Burns, University of Alaska Anchorage, Biology Department, Anchorage, AK, to conduct research on marine mammals.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following offices:

Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)427–8401; fax (301)713–0376; and

Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213; phone (562)980–4001; fax (562)980–4018.

FOR FURTHER INFORMATION CONTACT: Tammy Adams or Amy Sloan, (301)427–8401.

SUPPLEMENTARY INFORMATION: On March 8, 2013, notice was published in the **Federal Register** (78 FR 14984) that a request for a permit to conduct research on Weddell seals (*Leptonychotes weddellii*) had been submitted by the above-named applicant. The requested permit has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the regulations governing the taking and importing of marine mammals (50 CFR part 216).

The permit allows: capture of adult female Weddell seals of known-age and known-reproductive history in the Erebus Bay, Antarctica region for health assessments during reproductive and molt periods each year, to include blood samples, muscle/blubber/skin biopsies, morphometric measurements, and attachment of VHF/TDR/GPS tags; recapture of animals to retrieve instruments and collect additional measurements or samples; ground surveys of the population for molt status and demographic models; incidental harassment of crabeater seals (*Lobodon carcinophagus*) during surveys; mortality of adult female Weddell seals and dependent pups; and import of samples for analysis. The permit is valid through June 1, 2018.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), a final determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Dated: July 12, 2013.

P. Michael Payne,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2013–17152 Filed 7–16–13; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

[Docket No. PTO–C–2013–0036]

Extension of Comment Period for Request of the United States Patent and Trademark Office for Public Comments: Voluntary Best Practices Study

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Notice of extension of public comment period.

SUMMARY: The United States Patent and Trademark Office (''USPTO'') is extending until August 21, 2013, the period for public comment regarding the processes, data metrics, and methodologies that could be used to assess the effectiveness of cooperative agreements and other voluntary initiatives to reduce intellectual property infringement that occurs on-line—such as copyright piracy and trademark counterfeiting. The USPTO is extending the public comment period to ensure stakeholders have adequate time to submit complete responses.

DATES: To be ensured of consideration written comments should be received on or before August 21, 2013.

ADDRESSES: Written comments should be submitted electronically via *http://www.regulations.gov,* docket number PTO–C–2013–0036. Submissions should contain the term ''Voluntary Best Practices Study.'' The regulations.gov Web site is a Federal E-Government Web site that allows the public to find, review and submit comments on documents that have published in the **Federal Register** and that are open for comment. Submissions filed via the regulations.gov Web site will be available to the public for review and inspection. For this reason, please do not include in your comments information of a confidential nature, such as sensitive personal information or proprietary business information.

If you are unable to provide submissions to regulations.gov, you may contact the Office of Chief Economist by telephone at (571) 272–6900, or by email at *saurabh.vishnubhakat@uspto.gov,* to arrange for an alternate method of transmission.

FOR FURTHER INFORMATION CONTACT: Saurabh Vishnubhakat, Expert Advisor, Office of Chief Economist, by telephone at (571) 272–6900, or by email at *saurabh.vishnubhakat@uspto.gov.*

SUPPLEMENTARY INFORMATION: On June 20, 2013, the USPTO published a request for comments on the processes, data metrics, and methodologies that could be used to assess the effectiveness of cooperative agreements and other voluntary initiatives to reduce intellectual property infringement that occurs on-line—such as copyright piracy and trademark counterfeiting. The USPTO is now extending the period for submission of public comments until August 21, 2013.

Dated: July 12, 2013.

Teresa Stanek Rea,

Acting Under Secretary of Commerce for Intellectual Property and Acting Director of the United States Patent and Trademark Office.

[FR Doc. 2013–17166 Filed 7–16–13; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal Nos. 13–39]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Cooperation Agency.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. B. English, DSCA/DBO/CFM, (703) 601–3740.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittals 13–39 with attached transmittal and policy justification.

Dated: July 12, 2013.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–06–P

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, STE 203
ARLINGTON, VA 22202-5408

JUL 11 2013

The Honorable John A. Boehner
Speaker of the House
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 13-39, concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance to Greece for defense articles and services estimated to cost $250 million. After this letter is delivered to your office, we plan to issue a press statement to notify the public of this proposed sale.

You will also find attached a certification as required by Section 620C(d) of the Foreign Assistance Act of 1961, as amended, that this action is consistent with the principles set forth in subsection 620C(b) of that Act as codified in section 2373 of title 22, United States Code.

Sincerely,

For William E. Landay III
Vice Admiral, USN
Director

Enclosures:
1. Transmittal
2. Policy Justification
3. Section 620C(d)

CERTIFICATION PURSUANT TO § 620C(d)
OF THE FOREIGN ASSISTANCE ACT OF 1961, AS AMENDED

Pursuant to Section 620C(d) of the Foreign Assistance Act of 1961, as amended (the Act), Executive Order 12163 and State Department Delegation of Authority No. 293-2, I hereby certify that the furnishing to Greece of spare parts and services for F100-PW-229 engines for the Hellenic Air Force F-16 aircraft is consistent with the principles contained in Section 620C(b) of the Act.

This certification will be made part of the notification to Congress under Section 36(b) of the Arms Export Control Act, as amended, regarding the proposed sale of the above-named articles and services and is based on the justification accompanying such notification, of which such justification constitutes a full explanation.

Rose Gottemoeller
Acting Under Secretary of State
for Arms Control and International
Security

BILLING CODE 5001–06–C

Transmittal No. 13–39

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as Amended

(i) *Prospective Purchaser:* Government of Greece

(ii) *Total Estimated Value:*

Major Defense Equipment*	$0 million
Other	$250 million
TOTAL	$250 million

* As defined in Section 47(6) of the Arms Export Control Act.

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:* Spare parts and services for F100–PW–229 engines for Hellenic Air Force F–16 aircraft, to include: Inlet/Fan Modules, Core Engine Modules, Rear Compressor Drive Turbines, Fan Drive Turbine Modules, Augmentor Duct and Nozzle Modules, and Gearbox Modules. In addition, the proposed sale will include support equipment, publications and technical documentation, U.S. Government and contractor technical, engineering, logistics support services, and other related elements of program support.

(iv) *Military Department:* Air Force (QCG).

(v) *Prior Related Cases, if any:* None.

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None.

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* None.

(viii) *Date Report Delivered to Congress:* 11 July 2013.

POLICY JUSTIFICATION

Greece—Spare Parts and Services for F100–PW–229 Engines

The Government of Greece has requested the purchase of spare parts and services for F100–PW–229 engines for the Hellenic Air Force F–16 aircraft, to include: Inlet/Fan Modules, Core Engine Modules, Rear Compressor Drive Turbines, Fan Drive Turbine Modules, Augmentor Duct and Nozzle Modules, and Gearbox Modules. In addition, the proposed sale will include support equipment, publications and technical documentation, U.S. Government and contractor technical, engineering, and logistics support services, and other related elements of program support. The estimated cost is $250 million.

This proposed sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a NATO ally.

The uninterrupted supply of spare parts and support will ensure the Hellenic Air Force sustains its aircraft fleet at the highest state of readiness to face any potential threats.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The proposed sale will not be for one sole source contract for this sale. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will not require the assignment of any additional U.S. Government or contractor representatives to Greece.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

[FR Doc. 2013–17154 Filed 7–16–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2013–ICCD–0093]

Agency Information Collection Activities; Comment Request; Program for International Student Assessments (PISA) Validation Study

AGENCY: IES/NCES, Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing a new information collection.

DATES: Interested persons are invited to submit comments on or before September 16, 2013.

ADDRESSES: Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting Docket ID number ED–2013–ICCD–0093 or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 2E105, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: Electronically mail *ICDocketMgr@ed.gov.* Please do not send comments here.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Program for International Student Assessments (PISA) Validation Study.

OMB Control Number: 1850–NEW.

Type of Review: New information collection.

Respondents/Affected Public: Individuals or households.

Total Estimated Number of Annual Responses: 5,810.

Total Estimated Number of Annual Burden Hours: 2,240.

Abstract: PISA (Program for International Student Assessment), is an international assessment of 15-year-olds designed to evaluate, at the end of compulsory education, how well students are prepared for further education or entry into the workforce and, more fundamentally, to contribute to society as functioning young adults (OMB #1850–0755). However, PISA has been implemented as a cross-sectional study and, thus, the claim that PISA assesses key competencies for later success has never been tested in the United States. What is lacking is an empirical linkage between PISA and measures of successful transition from high school to postsecondary education, the workforce, or the types of skills required for successful participation in adult life. This study is designed to provide this empirical linkage. Students in the U.S. who participated in PISA in 2012 and supplied contact information will be contacted in early 2013 and invited to participate in the PISA Validation Study. In 2015, when these students will be 18 years old, they will be asked to complete an online questionnaire and assessment, based on those used in the Program for the International Assessment of Adult Competencies (PIAAC), assessing their literacy, numeracy, and problem-solving skills, and asking them about their educational attainment, education and work experiences, skills used in daily life, and aspects of health and well-being. This submission is for address updates of both filed trial and main study sample members, and will be followed in 2014 by requests for field test and main study recruitment and data collections activities.

Dated: July 11, 2013.

Stephanie Valentine,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2013–17119 Filed 7–16–13; 8:45 am]

BILLING CODE 4000–01–P

ELECTION ASSISTANCE COMMISSION

Proposed Information Collection—2014 Election Administration and Voting Survey; Comment Request

AGENCY: U.S. Election Assistance Commission (EAC).

ACTION: Notice.

SUMMARY: In compliance with Section 3506(c)(2)(A) of the *Paperwork Reduction Act* of 1995, EAC announces an information collection and seeks public comment on the provisions

thereof. The EAC, pursuant to 5 CFR 1320.5(a)(iii), intends to submit this proposed information collection (2014 Election Administration and Voting Survey) to the Director of the Office of Management and Budget for approval. The 2014 Election Administration and Voting Survey (Survey) asks election officials questions concerning voting and election administration. These questions request information concerning ballots cast; voter registration; overseas and military voting; Election Day activities; voting technology; and other important issues. The EAC issues the survey to meet its obligations under the Help America Vote Act to serve as national clearinghouse and resource for the compilation of information with respect to the administration of Federal elections; to fulfill both the EAC's and the Department of Defense Federal Voting Assistance Programs' quantitative State data collection requirements under the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA); and meet its National Voter Registration Act (NVRA) mandate to collect information from states concerning the impact of that statute on the administration of Federal Elections.

DATES: Written comments must be submitted on or before 4 p.m. EDT on September 16, 2013.

Comments: Public comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology. Comments on the proposed information collection should be submitted electronically to *electiondaysurvey@eac.gov.* Written comments on the proposed information collection can also be sent to the U.S. Election Assistance Commission, 1201 New York Avenue NW., Suite 300, Washington, DC 20005, *Attn:* Election Administration and Voting Survey.

Obtaining a Copy of the Survey: To obtain a free copy of the survey: (1) Access the EAC Web site at *http://www.eac.gov* and download an electronic copy of the survey; or (2) write to the EAC (including your address and phone number) at U.S. Election Assistance Commission, 1201 New York Avenue NW., Suite 300, Washington, DC 20005, *Attn:* Election Administration and Voting Survey.

FOR FURTHER INFORMATION CONTACT: Ms. Karen Lynn-Dyson at (202) 566–3100, U.S. Election Assistance Commission, 1201 New York Avenue NW., Suite 300, Washington, DC 20005.

Needs and Uses

The EAC issues the survey to meet its obligations under the Help America Vote Act to serve as national clearinghouse and resource for the compilation of information with respect to the administration of Federal elections; to fulfill both the EAC and Department of Defense Federal Voting Assistance Program data collection requirements under the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA); and meet its National Voter Registration Act (NVRA) mandate to collect information from states concerning the impact of that statute on the administration of Federal Elections. The Help America Vote Act of 2002 (HAVA) (42 U.S.C. 15322) requires the EAC to serve as a national clearinghouse and resource for the compilation of information and review of procedures with respect to the administration of Federal Elections. This includes the obligation to study and report on election activities, practices, policies, and procedures, including methods of voter registration, methods of conducting provisional voting, poll worker recruitment and training, and such other matters as the Commission determines are appropriate. In addition, under the National Voter Registration Act (NVRA), the EAC is responsible for collecting information and reporting, biennially, to the United States Congress on the impact of that statute. The information the States are required to submit to the EAC for purposes of the NVRA report are found under Title 11 of the Code of Federal Regulations. States that respond to questions in this survey concerning voter registration related matters will meet their NVRA reporting requirements under 42 U.S.C. 1973gg–7 and EAC regulations. Finally, the Uniformed and Overseas Citizens Absentee Voters Act (UOCAVA) mandates that the Department of Defense Federal Voting Assistance Program (FVAP) work with the EAC and State Chief Election officials to develop standards for reporting UOCAVA voting information (42 U.S.C. 1973ff–1) and that the FVAP will store the reported data and present the findings within the congressionally-mandated report to the President and Congress. Additionally, UOCAVA requires that ''not later than 90 days after the date of each regularly scheduled general election for Federal office, each State and unit of local government which administered the election shall (through the State, in the case of a unit of local government) submit a report to the Election Assistance Commission (established under the Help America Vote Act of 2002) on the combined number of absentee ballots transmitted to absent uniformed services voters and overseas voters for the election and the combined number of such ballots which were returned by such voters and cast in the election, and shall make such a report available to the general public.'' States that complete and timely submit the UOCAVA section of the survey to the EAC will fulfill their UOCAVA reporting requirement under 42 U.S.C. 1973ff–1(c). In order to fulfill the above requirements, the EAC is seeking information relating to the period from the Federal general election day 2012 +1 through the November 2014 Federal general election. The 2014 Survey has been expanded to include all of the questions from the Post-Election Survey of State and Local Election Officials, OMB Control Number 0704–0125, formerly conducted by the Department of Defense Federal Voting Assistance Program. The Election Assistance Commission will provide the data from the new included items to the Department of Defense after data collection is completed. The additional questions are necessary to fulfill the mandate of the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA of 1986 [42 U.S.C. 1973ff]). UOCAVA requires the States to allow Uniformed Services personnel, their family members, and overseas citizens to use absentee registration procedures and to vote by absentee ballot in general, special, primary, and runoff elections for Federal offices. UOCAVA covers members of the Uniformed Services and the merchant marine to include the commissioned corps of the National Oceanic and Atmospheric Administration and Public Health Service and their eligible dependents, Federal civilian employees overseas, and overseas U.S. citizens not affiliated with the Federal Government. Local Election Officials (LEO) process voter registration and absentee ballot applications, send absentee ballots to voters, and receive and process the voted ballots in counties, cities, parishes, townships and other jurisdictions within the U.S. The Federal Voting Assistance Program (FVAP) conducts the post-election

survey of State and Local Election Officials to determine registration and participation rates that are representative of all citizens covered by the Act, to measure State-Federal cooperation, and to evaluate the effectiveness of the overall absentee voting program.

SUPPLEMENTARY INFORMATION:

Title and OMB Number: 2014 Election Administration and Voting Survey; OMB Number Pending.

Summary of the Collection of Information: The survey requests information on a state- and county-level (or township-, independent city-, borough-level, where applicable) concerning the following categories:

Voter Registration Applications (From the Period of Federal General Election Day +1, 2012 Through Federal General Election Day, 2014)

(a) Total number of registered voters; (b) Number of active and inactive registered voters; (c) Number of persons who registered to vote on Election Day—only applicable to States with Election Day registration; (d) Number of voters who registered using online registration—only applicable to States that allow online registration: (e) Number of voter registration applications received from all sources; (f) Number of voter registration applications that were duplicates, invalid or rejected, new, changes of name, address, party, and not categorized; (g) Number of duplicate registration applications received from all sources; (h) Total number of removal/confirmation notices mailed to voters and the reason for removal; (i) total number of voters removed from the registration list or moved to the inactive registration list.

Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA)

(a) Total number and type of UOCAVA absentee ballots transmitted; (b) Total number and type of UOCAVA ballots returned and submitted for counting; (c) •Total number of the type of UOCAVA ballot returned by type of UOCAVA voter; (d) Total number and type of all UOCAVA ballots counted; (e) Total number of the type of UOCAVA ballot counted by type of UOCAVA voter; (f) Total number and type of all UOCAVA ballots rejected; (g) Total number of UOCAVA ballots rejected by reason for rejection; (h) Total number of UOCAVA ballot rejected by type of UOCAVA voter; (i) Total number and type of registered and eligible UOCAVA voters; (j) Total number of Federal Post Card Applications (FPCAs) received by type of voter; (k) Total number of FPCAs rejected by type of voter; (l) Total number of FPCAs rejected after the absentee ballot request deadline; (m) Date when transmission of absentee ballots to UOCAVA voters began for the November election cycle; (n) Total number of UOCAVA ballots transmitted before and after the 45-day deadline by mode of transmission; (o) Total number of UOCAVA ballots transmitted that were returned as undeliverable by mode of transmission; (p) Total number of UOCAVA ballots returned by voters, excluding Federal Write-In Absentee Ballots (FWABs); (q) Total number of UOCAVA ballots returned by voters and rejected, excluding FWABS, by type of voter and by mode of transmission; (r) Total number of UOCAVA ballots counted by mode of transmission, excluding FWABS; (s) Total number of FWABs received by type of voter; (t) Total number of FWABs rejected by type of voter; (u) Total number of FWABs rejected by reason for rejection; and (v) Total number of FWABs received by type of voter.

Election Administration

(a) Total number of precincts in the state/jurisdiction; (b) Number of polling places available for voting in the November 2014 Federal general election; (c) Number of poll workers used for Election Day; (d) Extent to which jurisdictions had enough poll workers available for the general election.

Election Day Activities

(a) Total number of persons who voted in the 2014 Federal general election; (b) The source of the participation number—poll books, ballots counted, vote history; (c) Total number of first-time voters who registered by mail and were required to provide identification in order to vote; (d) Number of voters who appeared on the permanent absentee voter registration list; (e) Number of absentee ballots requested, received, counted, and not counted; (f) Reasons for absentee ballot rejection; (g) Number of provisional ballots cast, counted, and rejected; (h) Reasons for provisional ballot rejection; (i) Use of electronic and printed poll books during the 2014 Federal general election; (j) Type and number of voting equipment used for the 2014 Federal general election; (k) Type of process in which voting equipment was used—precinct, absentee, early vote site, accessible to disabled voters, provisional voting; (l) Location in which votes were tallied—central location, precinct/polling place, or early vote site; (m) General comments regarding the jurisdiction's Election Day experiences.

2014 Election Results

Total number of votes cast—at polling places, via absentee ballot, at early vote centers, via provisional ballots.

Statutory Overview (2014 Federal General Election)

(a) Information on whether the state is exempt from the National Voter Registration Act (NVRA); (b) State definition of terms—over-vote, under-vote, blank ballot, void/spoiled ballot, provisional/challenged ballot; (c) State definition of inactive and active voter; (d) State provision for voter identification at registration, for in-person voting, and for mail-in or absentee voting; (e) information on legal citation for changes to election laws or procedures enacted or adopted since the previous Federal general election; (f) State definition of voter registration; (g) Process used for moving voters from active to inactive lists and from inactive to active; (h) State deadline for registration for the Federal general election; (i) Information of whether the state is an Election Day/Same Day Registration state; (j) Description of state voter registration database system—bottom-up or top-down; (k) State voter removal/confirmation notices processes; (l) Agency or department that is responsible for list maintenance; (m) Information on whether there are electronic links between the voter registrar's office and other state agencies; (n) State's use of National Change of Address (NCOA); (o) State's voting eligibility requirements as they relate to convicted felons; (p) Tabulation of votes cast at a place other than the voter's precinct; (q) Provision for voting absentee; (r) State tracking of the date of all ballots cast before election day; (s) Provision for mail-in voting in place of at-the-precinct voting; (t) Acceptance or rejection of provisional ballots of voters registered in a different precinct; (u) State process for capturing over-votes and under-votes. States and territories that submitted a Statutory Overview for 2008 will be asked to provide updates to the information above, where applicable.

Affected Public (Respondents): State or local governments, the District of Columbia, Commonwealth of Puerto Rico, Guam, American Samoa, and the United States Virgin Islands.

Affected Public: State or local government.

Number of Respondents: 55.

Responses per Respondent: 1.

Estimated Burden per Response: 230 hours per collection, 115 hours annualized.

Estimated Total Annual Burden Hours: 12,650 hours per collection, 6,325 hours annualized.

Frequency: Biennially.

Alice Miller,

Chief Operating Officer and Acting Executive Director, U.S. Election Assistance Commission.

[FR Doc. 2013–17126 Filed 7–16–13; 8:45 am]

BILLING CODE 6820–KF–P

DEPARTMENT OF ENERGY

Southeastern Power Administration

Cumberland System

AGENCY: Southeastern Power Administration (Southeastern), Department of Energy.

ACTION: Notice of rate extension.

SUMMARY: The Deputy Secretary, Department of Energy, extended on an interim basis rate schedules CBR–1–H, CSI–1–H, CEK–1–H, CM–1–H, CC–1–I, CK–1–H, CTV–1–H, CTVI–1–A, and Replacement-3. These rate schedules are applicable to Southeastern power sold to existing preference customers in Alabama, Georgia, Illinois, Kentucky, Mississippi, North Carolina, Tennessee, and Virginia. The rate schedules are extended through September 30, 2015.

DATES: Approval of the rate extension is effective October 1, 2013.

FOR FURTHER INFORMATION CONTACT: Virgil G. Hobbs III, Assistant Administrator, Finance and Marketing, Southeastern Power Administration, Department of Energy, 1166 Athens Tech Road, Elberton, Georgia 30635–6711, (706) 213–3800.

SUPPLEMENTARY INFORMATION: The Federal Energy Regulatory Commission, by Order issued December 22, 2011, in Docket No. EF11–13–000 (137 FERC ¶ 62,249), confirmed and approved Wholesale Power Rate Schedules CBR–1–H, CSI–1–H, CEK–1–H, CM–1–H, CC–1–I, CK–1–H, CTV–1–H, CTVI–1–A, and Replacement-3 through September 30, 2013. This order extends these rate schedules on an interim basis.

Dated: July 10, 2013.

Daniel B. Poneman,

Deputy Secretary.

Deputy Secretary

Rate Order No. SEPA–57

In the Matter of:

Southeastern Power Administration
Cumberland System Rates

Order Confirming and Approving Power Rates on an Interim Basis

Pursuant to Sections 302(a) of the Department of Energy Organization Act, Public Law 95–91, the functions of the Secretary of the Interior and the Federal Power Commission under Section 5 of the Flood Control Act of 1944, 16 U.S.C. 825s, relating to the Southeastern Power Administration (Southeastern), were transferred to and vested in the Secretary of Energy. By Delegation Order No. 00–037.00, effective December 6, 2001, the Secretary of Energy delegated to Southeastern's Administrator the authority to develop power and transmission rates for Southeastern customers and delegated to the Deputy Secretary of Energy the authority to extend and place in effect such rates on an interim basis. This rate is issued by the Deputy Secretary pursuant to that delegation order.

Background

Power from the Cumberland Projects is presently sold under Wholesale Power Rate Schedules CBR–1–H, CSI–1–H, CEK–1–H, CM–1–H, CC–1–I, CK–1–H, CTV–1–H, CTVI–1–A, and Replacement-3. These rate schedules were approved by the Federal Energy Regulatory Commission (FERC) in docket number EF11–13–000 on December 22, 2011, for a period ending September 30, 2013 (137 FERC ¶ 62,249).

Public Notice and Comment

Notice of a proposed rate extension was published in the **Federal Register** on March 28, 2013 (78 FR 18976). The notice advised interested parties of a proposal to extend the existing rate schedules for a two-year period, from October 1, 2013, through September 30, 2015. Written comments were due on or before April 29, 2013. Written comments were received from seven sources.

Comments received from interested parties are summarized below. Southeastern's response follows each comment.

Comment 1: The customers support the proposed extension.

Response 1: Southeastern will recommend the extension to the Deputy Secretary of the Department of Energy.

Comment 2: Future rate increases may drive Southeastern's rates to the point where it would no longer be economical to purchase Southeastern power. Once the full cost of repairs of the Wolf Creek and Center Hill Projects are included, the customers estimate Southeastern power will become uneconomical during nearly eighty percent of the dispatchable hours. The potential price of the Southeastern resources has been projected to exceed the expected market prices the majority of the time.

Response 2: Southeastern is concerned the cost of power Southeastern is responsible for marketing may exceed market rates. Southeastern will work with the U.S. Army Corps of Engineers (Corps) and the customers to ensure costs are managed and charged appropriately in an effort to maintain competitive rates.

Comment 3: At present, the Corps has not completed the repair work at the Wolf Creek and Center Hill Projects. It is appropriate that Southeastern set a rate that does not include any of the repair costs at this time.

Response 3: The cost of the repair work at Wolf Creek and Center Hill has not been included in the proposed rate extension.

Comment 4: While the Corps has declined to consider the appropriate statutory language in the Dam Safety Act that would mitigate the cost that hydropower customers may be asked to pay, Southeastern retains the full authority to ensure that the eventual rates for power will be the lowest possible rates consistent with sound business principles.

Response 4: Southeastern agrees that it retains full authority to ensure that the rates for power will be the lowest possible rates consistent with sound business principles within the meaning of Section 5 of the Flood Control Act of 1944. As noted above, Southeastern has not included the repair costs in the proposed rate extension.

Discussion

System Repayment

An examination of Southeastern's revised system power repayment study, prepared in January 2013, for the Cumberland System, shows that the existing rates are adequate to meet repayment criteria. The Administrator of Southeastern Power Administration (Administrator) has certified that the rates are consistent with applicable law and that they are the lowest possible rates to customers consistent with sound business principles.

Environmental Impact

Southeastern has reviewed the possible environmental impacts of the rate extension under consideration and has concluded that, because the adjusted rates would not significantly affect the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, the proposed action is not a major

Federal action for which preparation of an Environmental Impact Statement is required.

Availability of Information

Information regarding these rates, including studies and other supporting materials, is available for public review in the offices of Southeastern Power Administration, 1166 Athens Tech Road, Elberton, Georgia 30635.

Order

In view of the foregoing and pursuant to the authority delegated to me by the Secretary of Energy, I hereby confirm and approve on an interiml basis, effective October 1, 2013, attached Wholesale Power Rate Schedules CBR–1–H, CSI–1–H, CEK–1–H, CM–1–H, CC–1–I, CK–1–H, CTV–1–H, CTVI–1–A, and Replacement-3. The Rate Schedules shall remain in effect through September 30, 2015, unless such period is extended or until the FERC confirms and approves substitute Rate Schedules on a final basis.

Dated:

Daniel B. Poneman
Deputy Secretary

Wholesale Power Rate Schedule CBR–1–H

Availability:

This rate schedule shall be available to Big Rivers Electric Corporation and includes the City of Henderson, Kentucky (hereinafter called the Customer).

Applicability:

This rate schedule shall be applicable to electric capacity and energy available from the Dale Hollow, Center Hill, Wolf Creek, Cheatham, Old Hickory, Barkley, J. Percy Priest, and Cordell Hull Projects (all of such projects being hereinafter called collectively the ''Cumberland Projects'') and sold in wholesale quantities.

Character of Service:

The electric capacity and energy supplied hereunder will be three-phase alternating current at a nominal frequency of 60 hertz. The power shall be delivered at nominal voltages of 13,800 volts and 161,000 volts to the transmission system of Big Rivers Electric Corporation.

POINTS OF DELIVERY:

Capacity and energy delivered to the Customer will be delivered at points of interconnection of the Customer at the Barkley Project Switchyard, at a delivery point in the vicinity of the Paradise steam plant and at such other points of delivery as may hereafter be agreed upon by the Government and Tennessee Valley Authority (TVA).

Billing Month:

The billing month for power sold under this schedule shall end at 2400 hours CDT or CST, whichever is currently effective, on the last day of each calendar month.

Conditions of Service:

The customer shall at its own expense provide, install, and maintain on its side of each delivery point the equipment necessary to protect and control its own system. In so doing, the installation, adjustment, and setting of all such control and protective equipment at or near the point of delivery shall be coordinated with that which is installed by and at the expense of TVA on its side of the delivery point.

Southeastern is including three rate alternatives. All of the rate alternatives have a revenue requirement of $59,600,000.

Rate Scenario 1—Interim Operating Plan

The final marketing policy for the Cumberland System was published in the **Federal Register** August 5, 1993 (58 FR 41762). The marketing policy for the Cumberland System of Projects provides peaking capacity, along with 1500 hours of energy annually with each kilowatt of capacity, to customers outside the TVA transmission system. Due to restrictions on the operation of the Wolf Creek Project and the Center Hill Project imposed by the U.S. Army Corps of Engineers (Corps) as a precaution to prevent failure of the dams, Southeastern is not able to provide peaking capacity to these customers. Southeastern implemented an Interim Operating Plan for the Cumberland System to provide these customers with energy that did not include capacity. The rates under Scenario 1 will remain in effect for the duration of the Interim Operating Plan.

Monthly Rate:

The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand Charge:

None.

Energy Charge:

17.69 mills per kilowatt-hour.

Transmission:

The Customer will pay a ratable percent listed below of the credit the Administrator of Southeastern Power Administration (Administrator) provides to the TVA as consideration for delivering capacity and energy for the account of the Administrator to points of delivery of Other Customers or interconnection points of delivery with other electric systems for the benefit of Other Customers, as agreed by contract between the Administrator and TVA.

Big Rivers Electric Corporation, 32.660%

City of Henderson, Kentucky, 2.202%

Energy to be Furnished by the Government:

The Customer will receive a ratable share of the energy made available by the Nashville District of the U. S. Army Corps of Engineers.

Rate Scenario 2—Cost Recovered From Capacity and Energy

This rate alternative will be implemented if a portion of the Cumberland Capacity can be scheduled, though not all the capacity in the published marketing policy can be scheduled. The revenue requirement under this alternative is $59,600,000, the same as the revenue requirement in Scenarios 1 and 3. The Rate Scenario 2 will receive revenues from capacity that can be scheduled and the remainder from energy, at charges that will be determined at the time. Under Scenario 2, the cost of the TVA transmission credit will be passed to customers outside the TVA System. This rate alternative will be in effect when the Corps modifies operation of the Wolf Creek Project and the Center Hill Project to allow some of the capacity scheduled. When the lake level rises and capacity is available, the capacity will be allocated on an interim basis to the customers.

Rate Scenario 3—Original Cumberland Marketing Policy

The third rate alternative will go into effect once the Corps lifts all restrictions on the operation of the Wolf Creek Dam and Center Hill Dam and Southeastern returns to operations that support the published marketing policy.

Monthly Rate:

The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand Charge:

$4.245 per kilowatt/month of total contract demand.

Energy Charge:

None.

Energy to be Furnished by the Government:

The Government shall make available each contract year to the customer from the Projects through the customer's interconnections with TVA and the customer will schedule and accept an allocation of 1500 kilowatt-hours of energy delivered at the TVA border for each kilowatt of contract demand. A contract year is defined as the 12 months beginning July 1 and ending at midnight June 30 of the following calendar year. The energy made available for a contract year shall be

scheduled monthly such that the maximum amount scheduled in any month shall not exceed 240 hours per kilowatt of the customer's contract demand and the minimum amount scheduled in any month shall not be less than 60 hours per kilowatt of the customer's contract demand. The customer may request and the Government may approve energy scheduled for a month greater than 240 hours per kilowatt of the customer's contract demand; provided, that the combined schedule of all Southeastern customers outside TVA and served by TVA does not exceed 240 hours per kilowatt of the total contract demands of these customers.

Service Interruption:

When delivery of capacity is interrupted or reduced due to conditions on the Administrator's system beyond his control, the Administrator will continue to make available the portion of his declaration of energy that can be generated with the capacity available.

For such interruption or reduction due to conditions on the Administrator's system which have not been arranged for and agreed to in advance, the demand charge for capacity made available will be reduced as to the kilowatts of such capacity which have been interrupted or reduced in accordance with the following formula:

$$\left(\begin{array}{l}\text{Number of kilowatts unavailable}\\ \text{for at least 12 hours in any calendar day}\end{array}\right)\times\left(\frac{\text{Monthly Capacity Charge}}{\begin{array}{c}\text{Number of Days in}\\ \text{Billing Month}\end{array}}\right)$$

Wholesale Power Rate Schedule CSI–1–H

Availability:

This rate schedule shall be available to Southern Illinois Power Cooperative (hereinafter the Customer).

Applicability:

This rate schedule shall be applicable to electric capacity and energy available from the Dale Hollow, Center Hill, Wolf Creek, Cheatham, Old Hickory, Barkley, J. Percy Priest, and Cordell Hull Projects (all of such projects being hereinafter called collectively the ''Cumberland Projects'') and sold in wholesale quantities.

Character of Service:

The electric capacity and energy supplied hereunder will be three-phase alternating current at a nominal frequency of 60 hertz. The power shall be delivered at nominal voltages of 13,800 volts and 161,000 volts to the transmission system of Big Rivers Electric Corporation.

Points of Delivery

Capacity and energy delivered to the Customer will be delivered at points of interconnection of the Customer at the Barkley Project Switchyard, at a delivery point in the vicinity of the Paradise steam plant and at such other points of delivery as may hereafter be agreed upon by the Government and Tennessee Valley Authority (TVA).

Billing Month:

The billing month for power sold under this schedule shall end at 2400 hours CDT or CST, whichever is currently effective, on the last day of each calendar month.

Southeastern Power Administration (Southeastern) is including three rate alternatives. All of the rate alternatives have a revenue requirement of $59,600,000.

Rate Scenario 1—Interim Operating Plan

The final marketing policy for the Cumberland System was published in the **Federal Register** August 5, 1993 (58 FR 41762). The marketing policy for the Cumberland System of Projects provides peaking capacity, along with 1500 hours of energy annually with each kilowatt of capacity, to customers outside the TVA transmission system. Due to restrictions on the operation of the Wolf Creek Project and the Center Hill Project imposed by the U. S. Army Corps of Engineers (Corps) as a precaution to prevent failure of the dams, Southeastern is not able to provide peaking capacity to these customers. Southeastern implemented an Interim Operating Plan for the Cumberland System to provide these customers with energy that did not include capacity. The rates under Scenario 1 will remain in effect for the duration of the Interim Operating Plan.

Monthly Rate:

The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand Charge:

None.

Energy Charge:

17.69 mills per kilowatt-hour.

Transmission Charge:

The Customer will pay 5.138 percent of the credit the Administrator of Southeastern Power Administration (Administrator) provides to the TVA as consideration for delivering capacity and energy for the account of the Administrator to points of delivery of Other Customers or interconnection points of delivery with other electric systems for the benefit of Other Customers, as agreed by contract between the Administrator and TVA.

Energy to be Furnished by the Government:

The Customer will receive a ratable share of the energy made available by the Nashville District of the U. S. Army Corps of Engineers.

Rate Scenario 2—Cost Recovered From Capacity and Energy

This rate alternative will be implemented if a portion of the Cumberland Capacity can be scheduled, though not all the capacity in the published marketing policy can be scheduled. The revenue requirement under this alternative is $59,600,000, the same as the revenue requirement in Scenarios 1 and 3. The Rate Scenario 2 will receive revenues from capacity that can be scheduled and the remainder from energy, at charges that will be determined at the time. Under Scenario 2, the cost of the TVA transmission credit will be passed to customers outside the TVA System. This rate alternative will be in effect when the Corps modifies operation of the Wolf Creek Project and the Center Hill Project to allow some of the capacity scheduled. When the lake level rises and capacity is available, the capacity will be allocated on an interim basis to the customers.

Rate Scenario 3—Original Cumberland Marketing Policy

The third rate alternative will go into effect once the Corps lifts all restrictions on the operation of the Wolf Creek Dam and Center Hill Dam and Southeastern returns to operations that support the published marketing policy.

Monthly Rate:

The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand Charge:

$4.245 per kilowatt/month of total contract demand.

Energy Charge:

None.

Energy to be Furnished by the Government:

The Government shall make available each contract year to the customer from the Projects through the customer's interconnections with TVA and the customer will schedule and accept an allocation of 1500 kilowatt-hours of energy delivered at the TVA border for each kilowatt of contract demand. A contract year is defined as the 12 months beginning July 1 and ending at midnight June 30 of the following calendar year. The energy made available for a contract year shall be scheduled monthly such that the maximum amount scheduled in any month shall not exceed 240 hours per kilowatt of the customer's contract demand and the minimum amount scheduled in any month shall not be less than 60 hours per kilowatt of the customer's contract demand. The customer may request and the Government may approve energy scheduled for a month greater than 240 hours per kilowatt of the customer's contract demand; provided, that the combined schedule of all Southeastern customers outside TVA and served by TVA does not exceed 240 hours per kilowatt of the total contract demands of these customers.

Service Interruption:

When delivery of capacity is interrupted or reduced due to conditions on the Administrator's system beyond his control, the Administrator will continue to make available the portion of his declaration of energy that can be generated with the capacity available.

For such interruption or reduction due to conditions on the Administrator's system which have not been arranged for and agreed to in advance, the demand charge for capacity made available will be reduced as to the kilowatts of such capacity which have been interrupted or reduced in accordance with the following formula:

$$\left(\begin{array}{l}\text{Number of kilowatts unavailable}\\ \text{for at least 12 hours in any calendar day}\end{array}\right)\times\left(\frac{\text{Monthly Capacity Charge}}{\begin{array}{c}\text{Number of Days in}\\ \text{Billing Month}\end{array}}\right)$$

Wholesale Power Rate Schedule CEK–1–H

Availability:

This rate schedule shall be available to East Kentucky Power Cooperative (hereinafter called the Customer).

Applicability:

This rate schedule shall be applicable to electric capacity and energy available from the Dale Hollow, Center Hill, Wolf Creek, Cheatham, Old Hickory, Barkley, J. Percy Priest, and Cordell Hull Projects (all of such projects being hereinafter called collectively the ''Cumberland Projects'') and power available from the Laurel Project and sold in wholesale quantities.

Character of Service:

The electric capacity and energy supplied hereunder will be three-phase alternating current at a nominal frequency of 60 hertz. The power shall be delivered at nominal voltages of 161,000 volts to the transmission systems of the Customer.

Points of Delivery

The points of delivery will be the 161,000 volt bus of the Wolf Creek Power Plant and the 161,000 volt bus of the Laurel Project. Other points of delivery may be as agreed upon.

Billing Month:

The billing month for power sold under this schedule shall end at 2400 hours CDT or CST, whichever is currently effective, on the last day of each calendar month.

Conditions of Service:

The customer shall at its own expense provide, install, and maintain on its side of each delivery point the equipment necessary to protect and control its own system. In so doing, the installation, adjustment and setting of all such control and protective equipment at or near the point of delivery shall be coordinated with that which is installed by and at the expense of the Tennessee Valley Authority (TVA) on its side of the delivery point.

Southeastern Power Administration (Southeastern) is including three rate alternatives. All of the rate alternatives have a revenue requirement of $59,600,000.

Rate Scenario 1—Interim Operating Plan

The final marketing policy for the Cumberland System was published in the **Federal Register** August 5, 1993 (58 FR 41762). The marketing policy for the Cumberland System of Projects provides peaking capacity, along with 1500 hours of energy annually with each kilowatt of capacity, to customers outside the TVA transmission system. Due to restrictions on the operation of the Wolf Creek Project and the Center Hill Project imposed by the U. S. Army Corps of Engineers (Corps) as a precaution to prevent failure of the dams, Southeastern is not able to provide peaking capacity to these customers. Southeastern implemented an Interim Operating Plan for the Cumberland System to provide these customers with energy that did not include capacity. The rates under Scenario 1 will remain in effect for the duration of the Interim Operating Plan.

Monthly Rate:

The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand Charge:

None.

Energy Charge:

17.69 mills per kilowatt-hour.

Transmission Charge:

The Customer will pay 31.192 percent of the credit the Administrator of Southeastern Power Administration (Administrator) provides to the TVA as consideration for delivering capacity and energy for the account of the Administrator to points of delivery of Other Customers or interconnection points of delivery with other electric systems for the benefit of Other Customers, as agreed by contract between the Administrator and TVA.

Energy to be Furnished by the Government:

The Customer will receive a ratable share of the energy made available by the Nashville District of the U. S. Army Corps of Engineers.

Rate Scenario 2—Cost Recovered from Capacity and Energy

This rate alternative will be implemented if a portion of the Cumberland Capacity can be scheduled, though not all the capacity in the published marketing policy can be

scheduled. The revenue requirement under this alternative is $59,600,000, the same as the revenue requirement in Scenarios 1 and 3. The Rate Scenario 2 will receive revenues from capacity that can be scheduled and the remainder from energy, at charges that will be determined at the time. Under Scenario 2, the cost of the TVA transmission credit will be passed to customers outside the TVA System. This rate alternative will be in effect when the Corps modifies operation of the Wolf Creek Project and the Center Hill Project to allow some of the capacity scheduled. When the lake level rises and capacity is available, the capacity will be allocated on an interim basis to the customers.

Rate Scenario 3—Original Cumberland Marketing Policy

The third rate alternative will go into effect once the Corps lifts all restrictions on the operation of the Wolf Creek Dam and Center Hill Dam and Southeastern returns to operations that support the published marketing policy.

Monthly Rate:

The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand Charge:

$2.950 per kilowatt/month of total contract demand.

Energy Charge:

10.358 mills per kilowatt-hour.

Energy to be Furnished by the Government:

The Government shall make available each contract year to the customer from the Projects through the customer's interconnections with TVA and the customer will schedule and accept an allocation of 1500 kilowatt-hours of energy delivered at the TVA border for each kilowatt of contract demand plus 369 kilowatt-hours of energy delivered for each kilowatt of contract demand to supplement energy available at the Laurel Project. A contract year is defined as the 12 months beginning July 1 and ending at midnight June 30 of the following calendar year. The energy made available for a contract year shall be scheduled monthly such that the maximum amount scheduled in any month shall not exceed 240 hours per kilowatt of the customer's contract demand and the minimum amount scheduled in any month shall not be less than 60 hours per kilowatt of the customer's contract demand. The customer may request and the Government may approve energy scheduled for a month greater than 240 hours per kilowatt of the customer's contract demand; provided, that the combined schedule of all Southeastern customers outside TVA and served by TVA does not exceed 240 hours per kilowatt of the total contract demands of these customers.

Service Interruption:

When delivery of capacity is interrupted or reduced due to conditions on the Administrator's system beyond his control, the Administrator will continue to make available the portion of his declaration of energy that can be generated with the capacity available.

For such interruption or reduction due to conditions on the Administrator's system which have not been arranged for and agreed to in advance, the demand charge for capacity made available will be reduced as to the kilowatts of such capacity which have been interrupted or reduced in accordance with the following formula:

$$\left(\begin{array}{l}\text{Number of kilowatts unavailable}\\ \text{for at least 12 hours in any calendar day}\end{array}\right)\times\left(\frac{\text{Monthly Capacity Charge}}{\begin{array}{c}\text{Number of Days in}\\ \text{Billing Month}\end{array}}\right)$$

Wholesale Power Rate Schedule CM–1–H

Availability:

This rate schedule shall be available to the South Mississippi Electric Power Association, Municipal Energy Agency of Mississippi, and Mississippi Delta Energy Agency (hereinafter called the Customers).

Applicability:

This rate schedule shall be applicable to electric capacity and energy available from the Dale Hollow, Center Hill, Wolf Creek, Cheatham, Old Hickory, Barkley, J. Percy Priest, and Cordell Hull Projects (all of such projects being hereinafter called collectively the ''Cumberland Projects'') and sold in wholesale quantities.

Character of Service:

The electric capacity and energy supplied hereunder will be three-phase alternating current at a nominal frequency of 60 hertz. The power shall be delivered at nominal voltages of 161,000 volts to the transmission systems of Mississippi Power and Light.

Points of Delivery

The points of delivery will be at interconnection points of the Tennessee Valley Authority (TVA) system and the Mississippi Power and Light system. Other points of delivery may be as agreed upon.

Billing Month:

The billing month for power sold under this schedule shall end at 2400 hours CDT or CST, whichever is currently effective on the last day of each calendar month.

Southeastern Power Administration (Southeastern) is including three rate alternatives. All of the rate alternatives have a revenue requirement of $59,600,000.

Rate Scenario 1—Interim Operating Plan

The final marketing policy for the Cumberland System was published in the **Federal Register** August 5, 1993 (58 FR 41762). The marketing policy for the Cumberland System of Projects provides peaking capacity, along with 1500 hours of energy annually with each kilowatt of capacity, to customers outside the TVA transmission system. Due to restrictions on the operation of the Wolf Creek Project and the Center Hill Project imposed by the U.S. Army Corps of Engineers (Corps) as a precaution to prevent failure of the dams, Southeastern is not able to provide peaking capacity to these customers. Southeastern implemented an Interim Operating Plan for the Cumberland System to provide these customers with energy that did not include capacity. The rates under Scenario 1 will remain in effect for the duration of the Interim Operating Plan.

Monthly Rate:

The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand Charge:

None.

Energy Charge:

17.69 mills per kilowatt-hour.

Transmission Charge:

The Customer will pay a ratable percent listed below of the credit the

Administrator of Southeastern Power Administration (Administrator) provides to the TVA as consideration for delivering capacity and energy for the account of the Administrator to points of delivery of Other Customers or interconnection points of delivery with other electric systems for the benefit of Other Customers, as agreed by contract between the Administrator and TVA.

Mississippi Delta Energy Agency, 2.058%

Municipal Energy Agency of Mississippi, 3.447%

South Mississippi EPA, 9.358%

Energy to be Furnished by the Government:

The Customer will receive a ratable share of the energy made available by the Nashville District of the U.S. Army Corps of Engineers.

Rate Scenario 2—Cost Recovered From Capacity and Energy

This rate alternative will be implemented if a portion of the Cumberland Capacity can be scheduled, though not all the capacity in the published marketing policy can be scheduled. The revenue requirement under this alternative is $59,600,000, the same as the revenue requirement in Scenarios 1 and 3. The Rate Scenario 2 will receive revenues from capacity that can be scheduled and the remainder from energy, at charges that will be determined at the time. Under Scenario 2, the cost of the TVA transmission credit will be passed to customers outside the TVA System. This rate alternative will be in effect when the Corps modifies operation of the Wolf Creek Project and the Center Hill Project to allow some of the capacity scheduled. When the lake level rises and capacity is available, the capacity will be allocated on an interim basis to the customers.

Rate Scenario—Original Cumberland Marketing Policy

The third rate alternative will go into effect once the Corps lifts all restrictions on the operation of the Wolf Creek Dam and Center Hill Dam and Southeastern returns to operations that support the published marketing policy.

Monthly Rate:

The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand Charge:

$4.245 per kilowatt/month of total contract demand.

Energy Charge:

None.

Energy to be Furnished by the Government:

The Government shall make available each contract year to the Customer from the Projects through the Customer's interconnections with TVA and the Customer will schedule and accept an allocation of 1500 kilowatt-hours of energy delivered at the TVA border for each kilowatt of contract demand. A contract year is defined as the 12 months beginning July 1 and ending at midnight June 30 of the following calendar year. The energy made available for a contract year shall be scheduled monthly such that the maximum amount scheduled in any month shall not exceed 240 hours per kilowatt of the Customer's contract demand and the minimum amount scheduled in any month shall not be less than 60 hours per kilowatt of the Customer's contract demand. The Customer may request and the Government may approve energy scheduled for a month greater than 240 hours per kilowatt of the Customer's contract demand; provided, that the combined schedule of all Southeastern Customers outside TVA and served by TVA does not exceed 240 hours per kilowatt of the total contract demands of these Customers.

In the event that any portion of the capacity allocated to the Customers is not initially delivered to the Customers as of the beginning of a full contract year, the 1500 kilowatt hours shall be reduced 1/12 for each month of that year prior to initial delivery of such capacity.

Service Interruption:

When delivery of capacity is interrupted or reduced due to conditions on the Administrator's system beyond his control, the Administrator will continue to make available the portion of his declaration of energy that can be generated with the capacity available.

For such interruption or reduction due to conditions on the Administrator's system which have not been arranged for and agreed to in advance, the demand charge for capacity made available will be reduced as to the kilowatts of such capacity which have been interrupted or reduced in accordance with the following formula:

$$\left(\begin{array}{l}\text{Number of kilowatts unavailable}\\ \text{for at least 12 hours in any calendar day}\end{array}\right)\times\left(\frac{\text{Monthly Capacity Charge}}{\begin{array}{l}\text{Number of Days in}\\ \text{Billing Month}\end{array}}\right)$$

Wholesale Power Rate Schedule CC–1–I

Availability:

This rate schedule shall be available to public bodies and cooperatives served through the facilities of Carolina Power & Light Company, Western Division (hereinafter called the Customers).

Applicability:

This rate schedule shall be applicable to electric capacity and energy available from the Dale Hollow, Center Hill, Wolf Creek, Cheatham, Old Hickory, Barkley, J. Percy Priest, and Cordell Hull Projects (all of such projects being hereinafter called collectively the ''Cumberland Projects'') and sold in wholesale quantities.

Character of Service:

The electric capacity and energy supplied hereunder will be three-phase alternating current at a nominal frequency of 60 hertz. The power shall be delivered at nominal voltages of 161,000 volts to the transmission system of Carolina Power & Light Company, Western Division.

Points of Delivery

The points of delivery will be at interconnecting points of the Tennessee Valley Authority (TVA) system and the Carolina Power & Light Company, Western Division system. Other points of delivery may be as agreed upon.

Billing Month:

The billing month for power sold under this schedule shall end at 2400 hours CDT or CST, whichever is currently effective, on the last day of each calendar month.

Southeastern Power Administration (Southeastern) is including three rate alternatives. All of the rate alternatives have a revenue requirement of $59,600,000.

Rate Scenario 1—Interim Operating Plan

The final marketing policy for the Cumberland System was published in the **Federal Register** August 5, 1993 (58 FR 41762). The marketing policy for the Cumberland System of Projects provides peaking capacity, along with 1500 hours of energy annually with each kilowatt of capacity, to customers outside the TVA transmission system. Due to restrictions on the operation of the Wolf Creek Project and the Center Hill Project imposed by the U.S. Army Corps of Engineers (Corps) as a precaution to prevent failure of the dams, Southeastern is not able to provide peaking capacity to these customers. Southeastern implemented an Interim Operating Plan for the Cumberland System to provide these customers with energy that did not include capacity. The rates under Scenario will remain in effect for the duration of the Interim Operating Plan.

Monthly Rate:

The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand Charge:

None.

Energy Charge:

17.69 mills per kilowatt-hour.

TVA Transmission Charge:

The Customer will pay a ratable percent listed below of the credit the Administrator of Southeastern Power Administration (Administrator) provides to the TVA as consideration for delivering capacity and energy for the account of the Administrator to points of delivery of Other Customers or interconnection points of delivery with other electric systems for the benefit of Other Customers, as agreed by contract between the Administrator and TVA.

French Broad EMC, 1.713%
Haywood EMC, 0.501%
Town of Waynesville, 0.355%

CP&L Transmission Charge:

The Customer will way a ratable percent listed below of the charge for transmission service furnished by Carolina Power & Light Company, Western Division.

French Broad EMC, 66.667%
Haywood EMC, 19.512%
Town of Waynesville, 13.821%

Energy To Be Furnished by the Government:

The Government will sell to the customer and the customer will purchase from the Government energy each billing month equivalent to a percentage specified by contract of the energy made available to Carolina Power & Light Company (less applicable losses). The Customer's contract demand and accompanying energy allocation will be divided pro rata among its individual delivery points served from the Carolina Power & Light Company's, Western Division transmission system.

Rate Scenario 2—Cost Recovered From Capacity and Energy

This rate alternative will be implemented if a portion of the Cumberland Capacity can be scheduled, though not all the capacity in the published marketing policy can be scheduled. The revenue requirement under this alternative is $59,600,000, the same as the revenue requirement in Scenarios 1 and 3. The Rate Scenario 2 will receive revenues from capacity that can be scheduled and the remainder from energy, at charges that will be determined at the time. Under Scenario 2, the cost of the TVA transmission credit will be passed to customers outside the TVA System. This rate alternative will be in effect when the Corps modifies operation of the Wolf Creek Project and the Center Hill Project to allow some of the capacity scheduled. When the lake level rises and capacity is available, the capacity will be allocated on an interim basis to the customers.

Rate Scenario 3—Original Cumberland Marketing Policy

The third rate alternative will go into effect once the Corps lifts all restrictions on the operation of the Wolf Creek Dam and Center Hill Dam and Southeastern returns to operations that support the published marketing policy.

Monthly Rate:

The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand Charge:

$4.832 per kilowatt/month of total contract demand.

Energy Charge:

None.

CP&L Transmission Charge:

$1.3334 per kilowatt/month of total contract demand (As of July 2011 and provided for illustrative purposes.)

The CP&L transmission rate is subject to annual adjustment on April 1 of each year and will be computed subject to the formula in Appendix A attached to the Government—Carolina Power & Light Company contract.

Energy to be Furnished by the Government:

The Government will sell to the customer and the customer will purchase from the Government energy each billing month equivalent to a percentage specified by contract of the energy made available to Carolina Power & Light Company (less six percent [6%] losses). The Customer's contract demand and accompanying energy allocation will be divided pro rata among its individual delivery points served from the Carolina Power & Light Company's, Western Division transmission system.

Wholesale Power Rate Schedule CK–1–H

Availability:

This rate schedule shall be available to public bodies served through the facilities of Kentucky Utilities Company, (hereinafter called the Customers.)

Applicability:

This rate schedule shall be applicable to electric capacity and energy available from the Dale Hollow, Center Hill, Wolf Creek, Cheatham, Old Hickory, Barkley, J. Percy Priest, and Cordell Hull Projects (all of such projects being hereinafter called collectively the ''Cumberland Projects'') and sold in wholesale quantities.

Character of Service:

The electric capacity and energy supplied hereunder will be three-phase alternating current at a nominal frequency of 60 hertz. The power shall be delivered at nominal voltages of 161,000 volts to the transmission systems of Kentucky Utilities Company.

Points of Delivery

The points of delivery will be at interconnecting points between the Tennessee Valley Authority (TVA) system and the Kentucky Utilities Company system. Other points of delivery may be as agreed upon.

Billing Month:

The billing month for power sold under this schedule shall end at 2400 hours CDT or CST, whichever is currently effective on the last day of each calendar month.

Southeastern Power Administration (Southeastern) is including three rate alternatives. All of the rate alternatives have a revenue requirement of $59,600,000.

Rate Scenario 1—Interim Operating Plan

The final marketing policy for the Cumberland System was published in the **Federal Register** August 5, 1993 (58 FR 41762). The marketing policy for the Cumberland System of Projects provides peaking capacity, along with 1500 hours of energy annually with each kilowatt of capacity, to customers outside the TVA transmission system. Due to restrictions on the operation of the Wolf Creek Project and the Center Hill Project imposed by the U.S. Army Corps of Engineers (Corps) as a precaution to

prevent failure of the dams, Southeastern is not able to provide peaking capacity to these customers. Southeastern implemented an Interim Operating Plan for the Cumberland System to provide these customers with energy that did not include capacity. The rates under Scenario 1 will remain in effect for the duration of the Interim Operating Plan.

Monthly Rate:

The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand Charge:

None.

Energy Charge:

17.69 mills per kilowatt-hour.

Transmission Charge:

The Customer will pay a ratable percent listed below of the credit the Administrator of Southeastern Power Administration (Administrator) provides to the TVA as consideration for delivering capacity and energy for the account of the Administrator to points of delivery of Other Customers or interconnection points of delivery with other electric systems for the benefit of Other Customers, as agreed by contract between the Administrator and TVA.

City of Barbourville, 0.404%
City of Bardstown, 0.412%
City of Bardwell, 0.099%
City of Benham, 0.046%
City of Corbin, 0.477%
City of Falmouth, 0.108%
City of Frankfort, 2.866%
City of Madisonville, 1.432%
City of Nicholasville, 0.469%
City of Owensboro, 4.587%
City of Paris, 0.250%
City of Providence, 0.226%

Energy to be Furnished by the Government:

The Customer will receive a ratable share of the energy made available by the Nashville District of the U. S. Army Corps of Engineers.

Rate Scenario 2—Cost Recovered from Capacity and Energy

This rate alternative will be implemented if a portion of the Cumberland Capacity can be scheduled, though not all the capacity in the published marketing policy can be scheduled. The revenue requirement under this alternative is $59,600,000, the same as the revenue requirement in Scenarios 1 and 3. The Rate Scenario 2 will receive revenues from capacity that can be scheduled and the remainder from energy, at charges that will be determined at the time. Under Scenario 2, the cost of the TVA transmission credit will be passed to customers outside the TVA System. This rate alternative will be in effect when the Corps modifies operation of the Wolf Creek Project and the Center Hill Project to allow some of the capacity scheduled. When the lake level rises and capacity is available, the capacity will be allocated on an interim basis to the customers.

Rate Scenario 3—Original Cumberland Marketing Policy

The third rate alternative will go into effect once the Corps lifts all restrictions on the operation of the Wolf Creek Dam and Center Hill Dam and Southeastern returns to operations that support the published marketing policy.

Monthly Rate:

The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand Charge:

$4.245 per kilowatt/month of total contract demand.

Energy Charge:

None.

Additional Energy Charge:

10.358 mills per kilowatt-hour.

Energy to be Furnished by the Government:

The Government shall make available each contract year to the Customer from the Projects and the Customer will accept an allocation of 1500 kilowatt-hours of energy for each kilowatt of contract demand. A contract year is defined as the 12 months beginning July 1 and ending at midnight June 30 of the following calendar year. The energy made available for a contract year shall be scheduled monthly such that the maximum amount scheduled in any month shall not exceed 240 hours per kilowatt of the Customer's contract demand and the minimum amount scheduled in any month shall not be less than 60 hours per kilowatt of the Customer's contract demand. The Customer may request and the Government may approve energy scheduled for a month greater than 240 hours per kilowatt of the Customer's contract demand; provided, that the combined schedule of all Southeastern Customers outside TVA and served by TVA does not exceed 240 hours per kilowatt of the total contract demands of these Customers.

In the event that any portion of the capacity allocated to the Customers is not initially delivered to the Customers as of the beginning of a full contract year, the 1500 kilowatt hours shall be reduced 1/12 for each month of that year prior to initial delivery of such capacity.

For billing purposes, each kilowatt of capacity will include 1500 kilowatt-hours energy per year. Customers will pay for additional energy at the additional energy rate.

Wholesale Power Rate Schedule CTV–1–H

Availability:

This rate schedule shall be available to the Tennessee Valley Authority (hereinafter called TVA).

Applicability:

This rate schedule shall be applicable to electric capacity and energy generated at the Dale Hollow, Center Hill, Wolf Creek, Old Hickory, Cheatham, Barkley, J. Percy Priest, and Cordell Hull Projects (all of such projects being hereafter called collectively the ''Cumberland Projects'') and the Laurel Project sold under agreement between the Department of Energy and TVA.

Character of Service:

The electric capacity and energy supplied hereunder will be three-phase alternating current at a frequency of approximately 60 hertz at the outgoing terminals of the Cumberland Projects' switchyards.

Billing Month:

The billing month for capacity and energy sold under this schedule shall end at 2400 hours CDT or CST, whichever is currently effective, on the last day of each calendar month.

Contract Year:

For purposes of this rate schedule, a contract year shall be as in Section 13.1 of the Southeastern Power Administration—Tennessee Valley Authority Contract.

Power Factor:

TVA shall take capacity and energy from the Department of Energy at such power factor as will best serve TVA's system from time to time; provided, that TVA shall not impose a power factor of less than .85 lagging on the Department of Energy's facilities which requires operation contrary to good operating practice or results in overload or impairment of such facilities.

Southeastern Power Administration (Southeastern) is including three rate alternatives. All of the rate alternatives have a revenue requirement of $59,600,000.

Rate Scenario 1—Operating Plan

The final marketing policy for the Cumberland System was published in the **Federal Register** August 5, 1993 (58 FR 41762). The marketing policy for the Cumberland System of Projects provides peaking capacity, along with 1500 hours of energy annually with each kilowatt of capacity, to customers outside the TVA transmission system. Due to restrictions on the operation of the Wolf Creek Project and the Center Hill Project

imposed by the U.S. Army Corps of Engineers (Corps) as a precaution to prevent failure of the dams, Southeastern is not able to provide peaking capacity to these customers. Southeastern implemented an Interim Operating Plan for the Cumberland System to provide these customers with energy that did not include capacity. The rates under Scenario 1 will remain in effect for the duration of the Interim Operating Plan.

Monthly Rates:

The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand Charge:

None.

Energy Charge:

17.69 mills per kilowatt-hour.

Energy to be Made Available:

The Customer will receive a ratable share of the energy made available by the Nashville District of the U.S. Army Corps of Engineers.

Rate Scenario 2—Cost Recovered From Capacity and Energy

This rate alternative will be implemented if a portion of the Cumberland Capacity can be scheduled, though not all the capacity in the published marketing policy can be scheduled. The revenue requirement under this alternative is $59,600,000, the same as the revenue requirement in Scenarios 1 and 3. The Rate Scenario 2 will receive revenues from capacity that can be scheduled and the remainder from energy, at charges that will be determined at the time. Under Scenario 2, the cost of the TVA transmission credit will be passed to customers outside the TVA System. This rate alternative will be in effect when the Corps modifies operation of the Wolf Creek Project and the Center Hill Project to allow some of the capacity scheduled. When the lake level rises and capacity is available, the capacity will be allocated on an interim basis to the customers.

Rate Scenario 3—Original Cumberland Marketing Policy

The third rate alternative will go into effect once the Corps lifts all restrictions on theoperation of the Wolf Creek Dam and Center Hill Dam and Southeastern returns to operations that support the published marketing policy.

Monthly Rate:

The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand Charge:

$2.779 per kilowatt/month of total contract demand.

Energy Charge:

None.

Additional Energy Charge:

10.358 mills per kilowatt-hour.

Energy to be Made Available:

The Department of Energy shall determine the energy that is available from the projects for declaration in the billing month.

To meet the energy requirements of the Department of Energy's customers outside the TVA area (hereinafter called Other Customers), 768,000 megawatt-hours of net energy shall be available annually (including 36,900 megawatt-hours of annual net energy to supplement energy available at Laurel Project). The energy requirement of the Other Customers shall be available annually, divided monthly such that the maximum available in any month shall not exceed 240 hours per kilowatt of total Other Customers contract demand, and the minimum amount available in any month shall not be less than 60 hours per kilowatt of total Other Customers demand.

In the event that any portion of the capacity allocated to Other Customers is not initially delivered to the Other Customers as of the beginning of a full contract year, (July through June), the 1500 hours, plus any such additional energy required as discussed above, shall be reduced 1/12 for each month of that year prior to initial delivery of such capacity.

The energy scheduled by TVA for use within the TVA System in any billing month shall be the total energy delivered to TVA less (1) an adjustment for fast or slow meters, if any, (2) an adjustment for Barkley-Kentucky Canal of 15,000 megawatt-hours of energy each month which is delivered to TVA under the agreement from the Cumberland Projects without charge to TVA, (3) the energy scheduled by the Department of Energy in said month for the Other Customers plus losses of two percent [2%], and (4) station service energy furnished by TVA.

Each kilowatt of capacity will include 1500 kilowatt-hours of energy per year, which is defined as base energy. Energy received in excess of 1500 kilowatt-hours per kilowatt will be subject to an additional energy charge identified in the monthly rates section of this rate schedule.

Service Interruption:

When delivery of capacity to TVA is interrupted or reduced due to conditions on the Department of Energy's system that are beyond its control, the Department of Energy will continue to make available the portion of its declaration of energy that can be generated with the capacity available.

For such interruption or reduction (exclusive of any restrictions provided in the agreement) due to conditions on the Department of Energy's system which have not been arranged for and agreed to in advance, the demand charge for scheduled capacity made available to TVA will be reduced as to the kilowatts of such scheduled capacity which have been so interrupted or reduced for each day in accordance with the following formula:

$$\left(\begin{array}{l}\text{Number of kilowatts unavailable}\\ \text{for at least 12 hours in any calendar day}\end{array}\right)\times\left(\frac{\text{Monthly Capacity Charge}}{\begin{array}{c}\text{Number of Days in}\\ \text{Billing Month}\end{array}}\right)\times\left(\frac{\text{Contract Demand}}{\text{880,000 Kilowatts}}\right)$$

Wholesale Power Rate Schedule CTVI–1–A

Availability:

This rate schedule shall be available to customers (hereinafter called the Customer) who are or were formerly in the Tennessee Valley Authority (hereinafter called TVA) service area.

Applicability:

This rate schedule shall be applicable to electric capacity and energy generated at the Dale Hollow, Center Hill, Wolf Creek, Old Hickory, Cheatham, Barkley, J. Percy Priest, and Cordell Hull Projects (all of such projects being hereafter called collectively the ''Cumberland Projects'') and the Laurel Project sold under agreement between the Department of Energy and the Customer.

Character of Service:

The electric capacity and energy supplied hereunder will be three-phase alternating current at a frequency of approximately 60 hertz at the outgoing terminals of the Cumberland Projects' switchyards.

Billing Month:

The billing month for capacity and energy sold under this schedule shall end at 2400 hours CDT or CST, whichever is currently effective, on the last day of each calendar month.

Contract Year:

For purposes of this rate schedule, a contract year shall be as in Section 13.1 of the Southeastern Power Administration—Tennessee Valley Authority Contract.

Southeastern Power Administration (Southeastern) is including three rate alternatives. All of the rate alternatives have a revenue requirement of $59,600,000.

Rate Scenario 1—Interim Operating Plan

The final marketing policy for the Cumberland System was published in the **Federal Register** August 5, 1993 (58 FR 41762). The marketing policy for the Cumberland System of Projects provides peaking capacity, along with 1500 hours of energy annually with each kilowatt of capacity, to customers outside the TVA transmission system. Due to restrictions on the operation of the Wolf Creek Project and the Center Hill Project imposed by the U.S. Army Corps of Engineers (Corps) as a precaution to prevent failure of the dams, Southeastern is not able to provide peaking capacity to these customers. Southeastern implemented an Interim Operating Plan for the Cumberland System to provide these customers with energy that did not include capacity. The rates under Scenario 1 will remain in effect for the duration of the Interim Operating Plan.

Monthly Rates:

The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand Charge:

None.

Energy Charge:

17.69 mills per kilowatt-hour.

Transmission Charge:

The initial charge for transmission and Ancillary Services will be the Customer's ratable share of the charges for transmission, distribution, and ancillary services paid by the Government. The charges for transmission and ancillary services are governed by and subject to refund based upon the determination in proceedings before the Federal Energy Regulatory Commission (FERC) or other overseeing entity involving the TVA's and other transmission provider's Open Access Transmission Tariff (OATT).

Proceedings before FERC or other overseeing entity involving the OATT or the Distribution charge may result in the separation of charges currently included in the transmission rate. In this event, the Government may charge the Customer for any and all separate transmission, ancillary services, and distribution charges paid by the Government in behalf of the Customer. These charges could be recovered through a capacity charge or an energy charge, as determined by the Government.

Energy To Be Made Available:

The Customer will receive a ratable share of the energy made available by the Nashville District of the U.S. Army Corps of Engineers.

Rate Scenario 2—Cost Recovered From Capacity and Energy

This rate alternative will be implemented if a portion of the Cumberland Capacity can be scheduled, though not all the capacity in the published marketing policy can be scheduled. The revenue requirement under this alternative is $59,600,000, the same as the revenue requirement in Scenarios 1 and 3. The Rate Scenario 2 will receive revenues from capacity that can be scheduled and the remainder from energy, at charges that will be determined at the time. This rate alternative will be in effect when the Corps modifies operation of the Wolf Creek Project and the Center Hill Project to allow some of the capacity scheduled. When the lake level rises and capacity is available, the capacity will be allocated on an interim basis to the customers. The Customer will pay the same rate for capacity and energy as TVA. The Customer will pay their ratable share of any transmission charges paid in behalf of the Customer.

Rate Scenario 3—Original Cumberland Marketing Policy

The third rate alternative will go into effect once the Corps lifts all restrictions on the operation of the Wolf Creek Dam and Center Hill Dam and Southeastern returns to operations that support the published marketing policy.

Monthly Rate:

The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand Charge:

$2.779 per kilowatt/month of total contract demand.

Energy Charge:

None.

Additional Energy Charge:

10.358 mills per kilowatt-hour.

Transmission Charge:

The initial charge for transmission and Ancillary Services will be the Customer's ratable share of the charges for transmission, distribution, and ancillary services paid by the Government. The charges for transmission and ancillary services are governed by and subject to refund based upon the determination in proceedings before FERC or other overseeing entity involving the TVA's and other transmission provider's Open Access Transmission Tariff (OATT).

Proceedings before FERC or other overseeing entity involving the OATT or the Distribution charge may result in the separation of charges currently included in the transmission rate. In this event, the Government may charge the Customer for any and all separate transmission, ancillary services, and distribution charges paid by the Government in behalf of the Customer. These charges could be recovered through a capacity charge or an energy charge, as determined by the Government.

Energy To Be Made Available:

The energy will be scheduled by TVA and the Customer will receive their ratable share, in accordance with the Government-Customer Contract. Energy shall be accounted for, in accordance with agreements with TVA.

The Customer will receive a ratable share of their capacity, in accordance with the Government-Customer Contract.

Service Interruption:

When delivery of capacity to TVA is interrupted or reduced due to conditions on the Department of Energy's system that are beyond its control, the Department of Energy will continue to make available the portion of its declaration of energy that can be generated with the capacity available. The customer will receive a ratable share of this capacity.

For such interruption or reduction (exclusive of any restrictions provided in the agreement) due to conditions on the Department of Energy's system which have not been arranged for and agreed to in advance, the demand charge for scheduled capacity made available to the Customer will be reduced as to the kilowatts of such scheduled capacity which have been so interrupted or reduced for each day in accordance with the following formula:

$$\left(\begin{array}{l}\text{Number of kilowatts unavailable}\\ \text{for at least 12 hours in any calendar day}\end{array}\right)\times\left(\frac{\text{Monthly Capacity Charge}}{\begin{array}{c}\text{Number of Days in}\\ \text{Billing Month}\end{array}}\right)\times\left(\frac{\text{Contract Demand}}{\text{880,000 Kilowatts}}\right)$$

Wholesale Rate Schedule Replacement—3

Availability:

This rate schedule shall be available to public bodies and cooperatives (any one of whom is hereinafter called the Customer) in Virginia, North Carolina, Tennessee, Georgia, Alabama, Mississippi, Kentucky, and southern Illinois to whom power is provided pursuant to contracts between the Government and the customer from the Dale Hollow, Center Hill, Wolf Creek, Cheatham, Old Hickory, Barkley, J. Percy Priest, Cordell Hull, and Laurel Projects (all of such projects being hereinafter called collectively the ''Cumberland Projects'').

Applicability:

This rate schedule shall be applicable to the sale of wholesale energy purchased to meet contract minimum energy sold under appropriate contracts between the Government and the Customer.

Character of Service:

The energy supplied hereunder will be delivered at the delivery points provided for under appropriate contracts between the Government and the Customer.

Monthly Charge:

The rate for replacement energy will be a formulary capacity charge based on the monthly cost to the Government to purchase replacement energy necessary to support capacity in the Cumberland System divided by the capacity available from the Cumberland System, which is 950,000 kilowatts in the published power marketing policy. The capacity rate will be adjusted for any capacity retained by the Customer's transmission facilitator.

Conditions of Service:

The customer shall at its own expense provide, install, and maintain on its side of each delivery point the equipment necessary to protect and control its own system.

[FR Doc. 2013–17129 Filed 7–16–13; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2013–0150; FRL–9389–4]

Agency Information Collection Activities; Proposed Collection; Comment Request

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA), this document announces that EPA is planning to submit an Information Collection Request (ICR) to the Office of Management and Budget (OMB). The ICR, titled ''Requirements for Certified Applicators Using 1080 Collars for Livestock Protection'' and identified by EPA ICR No. 1249.09 and OMB Control No. 2070–0074 represents the renewal of an existing ICR that is scheduled to expire on March 31, 2014. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection that is summarized in this document. The ICR and accompanying material are available in the docket for public review and comment.

DATES: Comments must be received on or before September 16, 2013.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2013–0150, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.htm.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Rame Cromwell, Field and External Affairs Division (7506P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 308–9068; fax number: (703) 305–5884; email address: *cromwell.rame@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. What information is EPA particularly interested in?

Pursuant to PRA section 3506(c)(2)(A) (44 U.S.C. 3506(c)(2)(A)), EPA specifically solicits comments and information to enable it to:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility.
2. Evaluate the accuracy of the Agency's estimates of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.
3. Enhance the quality, utility, and clarity of the information to be collected.
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. In particular, EPA is requesting comments from very small businesses (those that employ less than 25) on examples of specific additional efforts that EPA could make to reduce the paperwork burden for very small businesses affected by this collection.

II. What information collection activity or ICR does this action apply to?

Title: Requirements for Certified Applicators Using 1080 Collars for Livestock Protection.

ICR number: EPA ICR No. 1249.09.

OMB control number: 2070–0074.

ICR status: This ICR is currently scheduled to expire on March 31, 2014. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for

EPA's regulations in title 40 of the Code of Federal Regulations (CFR), after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers for certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: This ICR potentially affects non-federal Certified Applicators in three States (New Mexico, South Dakota, and Wyoming), the State lead agencies for pesticide regulation in those States that monitor the program and are themselves registrants of 1080 Livestock Protection Collar products, and one additional registrant. EPA also receives annual reports on use of a 1080 Livestock Protection Collar product registered to the U.S. Department of Agriculture, Animal and Plant Health Inspection Service (USDA/APHIS). That product is applied in several States by employees of USDA/APHIS. Applicators who are certified to apply livestock protection collars are required to keep records of: (a) The number of collars attached on livestock; (b) the pastures where collared livestock were placed; (c) the dates of each attachment, inspection, and removal; (d) the number and locations of livestock found with ruptured or punctured collars and the apparent cause of the damage; (e) the number, dates, and approximate location of all collars lost; and (f) the species, locations, and dates of all suspected poisonings of humans, domestic animals or non-target wild animals resulting from collar use.

Burden statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 40 hours per response. Burden is defined in 5 CFR 1320.3(b).

The ICR, which is available in the docket along with other related materials, provides a detailed explanation of the collection activities and the burden estimate that is only briefly summarized here:

Respondents/Affected Entities: Entities potentially affected by this ICR are pesticide and other agricultural manufacturers (NAICS 325320), e.g., pesticide registrants whose products include 1080 collars; and government establishments primarily engaged in administration of environmental quality programs (NAICS 9241) e.g., States implementing a 1080 collar monitoring program.

Estimated total number of potential respondents: 48.

Frequency of response: Annual.

Estimated total average number of responses for each respondent: 1.

Estimated total annual burden hours: 1,944 hours.

Estimated total annual costs: $83,335. This includes an estimated burden cost of $83,335 and an estimated cost of $0 for capital investment or maintenance and operational costs.

III. Are there changes in the estimates from the last approval?

There is no change of 1,944 hours in the total estimated respondent burden compared with that identified in the ICR currently approved by OMB.

IV. What is the next step in the process for this ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. EPA will issue another **Federal Register** document pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

List of Subjects

Environmental protection, Reporting and recordkeeping requirements.

Dated: July 3, 2013.

James Jones,

Acting Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2013–17024 Filed 7–16–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2013–00536; FRL–9391–8]

CGI Federal, Inc., and Custom Applications Management; Transfer of Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces that pesticide related information submitted to EPA's Office of Pesticide Programs (OPP) pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA), including information that may have been claimed as Confidential Business Information (CBI) by the submitter, will be transferred to CGI Federal, Inc., and its subcontractor, Custom Applications Management, in accordance with the CBI regulations. CGI Federal, Inc., and its subcontractor, Custom Applications Management, have been awarded a contract to perform work for OPP, and access to this information will enable CGI Federal, Inc., and its subcontractor, Custom Applications Management, to fulfill the obligations of the contract.

DATES: CGI Federal, Inc., and its subcontractor, Custom Applications Management, will be given access to this information on or before July 22, 2013.

FOR FURTHER INFORMATION CONTACT: Mario Steadman, Information Technology and Resources Management Division (7502P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 305–8338; email address: *steadman.mario@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action applies to the public in general. As such, the Agency has not attempted to describe all the specific entities that may be affected by this action.

B. How can I get copies of this document and other related information?

The docket for this action, Custom Applications Management, identified by docket identification (ID) number EPA–HQ–OPP–2013–00536 is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), EPA West Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets*.

II. Contractor Requirements

Under Contract No. GS–35F–4797H, CGI Federal, Inc., and its subcontractor, Custom Applications Management will perform. The Contractor will develop applications, Web sites, Web pages, web-based applications and databases, in accordance with EPA policies and related Federal standards and procedures. The Contractor will provide

search engine enhancements and support. The Contractor shall manage the full life-cycle of application and web projects efficiently and cost effectively. The contractor shall provide requirement analysis, design, development, testing, documentation, and implementation as defined. The Contractor shall provide graphic and media support to those customers who require it. The Contractor shall also provide graphic and media support for the EPA Web Workgroup conferences.

OPP has determined that access by CGI Federal, Inc., and its subcontractor, Custom Applications Management, to information on all pesticide chemicals is necessary for the performance of this contract.

Some of this information may be entitled to confidential treatment. The information has been submitted to EPA under FIFRA sections 3, 4, 6, and 7 and under FFDCA sections 408 and 409.

In accordance with the requirements of 40 CFR 2.307(h)(2), the contract with CGI Federal, Inc., and its subcontractor, Custom Applications Management, prohibits use of the information for any purpose not specified in the contract; prohibits disclosure of the information to a third party without prior written approval from the Agency; and requires that each official and employee of the contractor sign an agreement to protect the information from unauthorized release and to handle it in accordance with the *FIFRA Information Security Manual.* In addition, CGI Federal, Inc., and its subcontractor, Custom Applications Management, are required to submit for EPA approval a security plan under which any CBI will be secured and protected against unauthorized release or compromise. No information will be provided to CGI Federal, Inc., and its subcontractor, Custom Applications Management, until the requirements in this document have been fully satisfied. Records of information provided to CGI Federal, Inc., and its subcontractor, Custom Applications Management, will be maintained by EPA Project Officers for this contract. All information supplied to CGI Federal, Inc., and its subcontractor, Custom Applications Management, by EPA for use in connection with this contract will be returned to EPA when CGI Federal, Inc., and its subcontractor, Custom Applications Management, have completed their work.

List of Subjects

Environmental protection, Business and industry, Government contracts, Government property, Security measures.

Dated: June 26, 2013.

Oscar Morales,

Director, Information Technology and Resources Management Division, Office of Pesticide Programs.

[FR Doc. 2013–16926 Filed 7–16–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL9834–8]

Underground Injection Control Program; Hazardous Waste Injection Restrictions; Petition for Exemption—Class I Hazardous Waste Injection; Blanchard Refining Company LLC Galveston Bay Refinery, Texas City, Texas (Formerly BP Products North America Inc.—Texas City Business Unit)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of a final decision on a no migration petition reissuance.

SUMMARY: Notice is hereby given that a reissuance of an exemption to the land disposal Restrictions, under the 1984 Hazardous and Solid Waste Amendments to the Resource Conservation and Recovery Act, has been granted to Blanchard Refining Company LLC (Blanchard) Galveston Bay Refinery for three existing Class I injection wells located at Texas City, Texas. The company has adequately demonstrated to the satisfaction of the Environmental Protection Agency by the petition reissuance application and supporting documentation that, to a reasonable degree of certainty, there will be no migration of hazardous constituents from the injection zone for as long as the waste remains hazardous. This final decision allows the continued underground injection by Blanchard of the specific restricted hazardous wastes identified in this exemption into Class I hazardous waste injection wells Nos. WDW–80, 127, and 128 at the Galveston Bay Refinery facility, until December 31, 2020, unless EPA moves to terminate this exemption. Additional conditions included in this final decision may be reviewed by contacting the Region 6 Ground Water/UIC Section. A public comment period for the proposed approval of this reissuance was May 7, 2013, through June 24, 2013, and no comments were received. This decision constitutes final Agency action and there is no Administrative appeal. This decision may be reviewed/appealed in compliance with the Administrative Procedure Act.

DATES: This action is effective as of July 2, 2013.

ADDRESSES: Copies of the petition reissuance and all pertinent information relating thereto are on file at the following location: Environmental Protection Agency, Region 6, Source Water Protection Branch (6WQ–S), 1445 Ross Avenue, Dallas, Texas 75202–2733.

FOR FURTHER INFORMATION CONTACT: Philip Dellinger, Chief Ground Water/UIC Section, EPA—Region 6, telephone (214) 665–7150.

Dated: July 2, 2013.

David F. Garcia,

Deputy Director, Water Quality Protection Division.

[FR Doc. 2013–17147 Filed 7–16–13; 8:45 am]

BILLING CODE 6560–50–P

EXPORT-IMPORT BANK OF THE UNITED STATES

[Public Notice: 2013–0036]

Application for Final Commitment for a Long-Term Loan or Financial Guarantee in Excess of $100 Million: AP088133XX

AGENCY: Export-Import Bank of the United States.

ACTION: Notice.

SUMMARY: This Notice is to inform the public, in accordance with Section 3(c)(10) of the Charter of the Export-Import Bank of the United States (''Ex-Im Bank''), that Ex-Im Bank has received an application for final commitment for a long-term loan or financial guarantee in excess of $100 million (as calculated in accordance with Section 3(c)(10) of the Charter). Comments received within the comment period specified below will be presented to the Ex-Im Bank Board of Directors prior to final action on this transaction.

Reference: AP088133XX.

Purpose and Use:

Brief description of the purpose of the transaction: To support the export of U.S.-manufactured commercial aircraft to Luxembourg.

Brief non-proprietary description of the anticipated use of the items being exported: To provide air cargo services globally.

To the extent that Ex-Im Bank is reasonably aware, the item(s) being exported are not expected to be used to produce exports or provide services in competition with the exportation of goods or provision of services by a United States industry.

Parties:

Principal Supplier: The Boeing Company.

Obligor: Cargolux Airlines International S.A.

Guarantor(s): N/A.

Description of Items Being Exported: The items being exported are Boeing 747 aircraft.

Information on Decision: Information on the final decision for this transaction will be available in the ''Summary Minutes of Meetings of Board of Directors'' on *http://exim.gov/newsandevents/boardmeetings/board/.*

Confidential Information: Please note that this notice does not include confidential or proprietary business information; information which, if disclosed, would violate the Trade Secrets Act; or information which would jeopardize jobs in the United States by supplying information that competitors could use to compete with companies in the United States.

DATES: Comments must be received on or before August 12, 2013 to be assured of consideration before final consideration of the transaction by the Board of Directors of Ex-Im Bank.

ADDRESSES: Comments may be submitted through Regulations.gov at *WWW.REGULATIONS.GOV.* To submit a comment, enter EIB–2013–0036 under the heading ''Enter Keyword or ID'' and select Search. Follow the instructions provided at the Submit a Comment screen. Please include your name, company name (if any) and EIB–2013–0036 on any attached document.

Cristopolis A. Dieguez,

Program Specialist, Office of the General Counsel.

[FR Doc. 2013–17112 Filed 7–16–13; 8:45 am]

BILLING CODE 6690–01–P

EXPORT-IMPORT BANK

[Public Notice 2013–0037]

Application for Final Commitment for a Long-Term Loan or Financial Guarantee in Excess of $100 Million: AP086036XX

AGENCY: Export-Import Bank of the United States.

ACTION: Notice.

SUMMARY: This Notice is to inform the public, in accordance with Section 3(c)(10) of the Charter of the Export-Import Bank of the United States (''Ex-Im Bank''), that Ex-Im Bank has received an application for final commitment for a long-term loan or financial guarantee in excess of $100 million (as calculated in accordance with Section 3(c)(10) of the Charter). Comments received within the comment period specified below will be presented to the Ex-Im Bank Board of Directors prior to final action on this transaction.

Reference: AP086036XX.

Purpose and Use:

Brief description of the purpose of the transaction: To support the export of U.S. manufactured semiconductor manufacturing equipment to Singapore.

Brief non-proprietary description of the anticipated use of the items being exported: Equipment supports the manufacture of NAND flash semiconductors.

To the extent that Ex-Im Bank is reasonably aware, the item(s) being exported may be used to produce exports or provide services in competition with the exportation of goods or provision of services by a United States industry.

Parties:

Principal Supplier: Applied Materials, Inc., Lam Research Corp.

Obligor: Micron Semiconductor Asia Pte. Ltd.

Guarantor(s): Micron Technology, Inc.

Description Of Items Being Exported: Various semiconductor manufacturing equipment manufactured by Applied Materials, Inc., Axcelis Technologies, Inc. and Lam Research Corp.

Information On Decision: Information on the final decision for this transaction will be available in the ''Summary Minutes of Meetings of Board of Directors'' on *http://exim.gov/newsandevents/boardmeetings/board/.*

Confidential Information: Please note that this notice does not include confidential or proprietary business information; information which, if disclosed, would violate the Trade Secrets Act; or information which would jeopardize jobs in the United States by supplying information that competitors could use to compete with companies in the United States.

DATES: Comments must be received on or before August 12, 2013 to be assured of consideration before final consideration of the transaction by the Board of Directors of Ex-Im Bank.

ADDRESSES: Comments may be submitted through Regulations.gov at *www.regulations.gov.* To submit a comment, enter EIB–2013–0037 under the heading ''Enter Keyword or ID'' and select Search. Follow the instructions provided at the Submit a Comment screen. Please include your name, company name (if any) and EIB–2013–0037 on any attached document.

Cristopolis A. Dieguez,

Program Specialist, Office of the General Counsel.

[FR Doc. 2013–17111 Filed 7–16–13; 8:45 am]

BILLING CODE 6690–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 12, 2013.

A. Federal Reserve Bank of Boston (Richard Walker, Community Affairs Officer) 600 Atlantic Avenue, Boston, Massachusetts 02210–2204:

1. *Independent Bank Corp,* Rockland, Massachusetts; to acquire Mayflower Bancorp, Inc., and thereby indirectly acquire Mayflower Co-operative Bank, both in Middleboro, Massachusetts.

B. Federal Reserve Bank of Philadelphia (William Lang, Senior Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105–1521:

1. *Fox Chase Bancorp Inc.,* Hatboro, Pennsylvania; to become a bank holding company upon the conversion of Fox Chase Bank, Hatboro, Pennsylvania, from a savings association to a state savings bank.

C. Federal Reserve Bank of St. Louis (Yvonne Sparks, Community Development Officer) P.O. Box 442, St. Louis, Missouri 63166–2034:

1. *HopFed Bancorp, Inc.,* Hopkinsville, Kentucky; to acquire 100

percent of Sumner Bank & Trust, Gallatin, Tennessee.

2. *The McGehee Bank Employee Stock Ownership Plan,* McGhee, Arkansas; to acquire up to 35 percent of the voting shares of Southeast Financial Bankstock Corp., and thereby indirectly acquire voting shares of McGehee Bank, both in McGehee, Arkansas.

Board of Governors of the Federal Reserve System, July 12, 2013.

Margaret McCloskey Shanks,

Deputy Secretary of the Board.

[FR Doc. 2013–17133 Filed 7–16–13; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10494]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, and to allow a second opportunity for public comment on the notice. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments on the collection(s) of information must be received by the OMB desk officer by *August 14, 2013:*

ADDRESSES: When commenting on the proposed information collections, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be received by the OMB desk officer via one of the following transmissions: OMB, Office of Information and Regulatory Affairs, Attention: CMS Desk Officer, Fax Number: (202) 395–6974 or Email: *OIRA_submission@omb.eop.gov.*

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' Web site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995.*
2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov.*
3. Call the Reports Clearance Office at (410) 786–1326.

FOR FURTHER INFORMATION CONTACT: Reports Clearance Office at (410) 786–1326.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires federal agencies to publish a 30-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice that summarizes the following proposed collection(s) of information for public comment:

1. *Type of Information Collection Request:* New collection; *Title of Information Collection:* Patient Protection and Affordable Care Act; Exchange Functions: Standards for Navigators and Non-Navigator Assistance Personnel; Consumer Assistance Tools and Programs of an Exchange and Certified Application Counselors; *Use:* Section 1413 of the Affordable Care Act directs the Secretary of HHS to establish, subject to minimum requirements, a streamlined enrollment system for qualified health plans offered through the Exchange and insurance affordability programs. In addition, section 1321(a)(1) of the Affordable Care Act directs and authorizes the Secretary to issue regulations setting standards for meeting the requirements under title I of the Affordable Care Act, with respect to, among other things, the establishment and operation of Exchanges. Pursuant to this authority, regulations establishing the certified application counselor program are being finalized at 45 CFR 155.225. Specifically, 45 CFR 155.225(a) requires an Exchange to establish a certified application counselor program that complies with the requirements of the rule. Section 155.225(b)(1) allows each Exchange to designate certain organizations, including organizations designated by state Medicaid or CHIP agencies, which will certify their staff and volunteers to act as certified application counselors. In accordance with 45 CFR 155.225(b)(2), Exchanges may choose to certify directly individuals who seek to act as certified application counselors, designate certain organizations which will certify staff or volunteers to perform application services, or do both. *Form Number:* CMS–10494 (OCN: 0938–NEW); *Frequency:* Yearly, annually; *Affected Public:* Private sector (not-for-profit institutions), individuals or households, State, Local, or Tribal Governments; *Number of Respondents:* 8,720; *Total Annual Responses:* 8,720; *Total Annual Hours:* 5,536. (For policy questions regarding this collection contact Tricia Beckmann at 301–492–4328.)

Martique Jones,

Deputy Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2013–17149 Filed 7–15–13; 11:15 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–5506–N2]

Medicare Program; Comprehensive ESRD Care Initiative; Extension of the Submission Deadlines for the Letters of Intent and Applications

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice of extension of deadlines.

SUMMARY: This notice reopens the Letter of Intent submission period for the Comprehensive ESRD Care initiative letters of intent. Letters of Intent are now due on or before July 19, 2013. All potential applicants must submit a Letter of Intent to be eligible to submit

an application. The submission deadline for the application has been extended to August 1, 2013.

DATES: *Letter of Intent Submission Deadline:* Interested organizations must submit a non-binding letter of intent on or before July 19, 2013, by an online form at: *https://cmsgov.secure.force.com/cec.*

Application Submission Deadline: Interested organizations must submit an application on or before August 1, 2013, as described on the Innovation Center Web site at: *http://innovation.cms.gov/initiatives/comprehensive-ESRD-care/apply.html.* Interested organizations should also continue to check the Web site for updates on this initiative.

FOR FURTHER INFORMATION CONTACT: Melissa Cohen, (410) 786–1829 or *ESRD-CMMI@cms.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The Center for Medicare and Medicaid Innovation (Innovation Center) is interested in identifying models designed to improve care for beneficiaries with end-stage renal disease (ESRD). To promote seamless and integrated care for beneficiaries with ESRD, we are developing a comprehensive care delivery model to emphasize coordination of a full-range of clinical and non-clinical services across providers, suppliers, and settings. Through the Comprehensive ESRD Care Model, we seek to identify ways to improve the coordination and quality of care for this population, while lowering total per-capita expenditures under the Medicare program. We anticipate that the Comprehensive ESRD Care Model would result in improved health outcomes for beneficiaries with ESRD regarding the functional status, quality of life, and overall well-being, as well as increased beneficiary and caregiver engagement, and lower costs to Medicare through improved care coordination.

On February 6, 2013, we published a notice in the **Federal Register** announcing a request for applications from organizations to participate in the testing of the Comprehensive ESRD Care Model, for a period beginning in 2013 and ending in 2016, with a possible extension into subsequent years.

In that notice, we stated that organizations interested in applying to participate in the testing of the Comprehensive ESRD Care Model must submit a non-binding letter of intent by March 15, 2013, and an application by May 1, 2013.

II. Provisions of the Notice

Since the publication of the February 6, 2013 notice, several stakeholders have requested additional time to prepare their applications and form partnerships. Therefore, the Innovation Center is extending the following deadlines relating to the Comprehensive ESRD Care initiative: (1) The letter of intent submission period has been reopened. The deadline for submission of the letter of intent has been extended to July 19, 2013; and (2) the deadline for submission of the application has been extended to August 1, 2013.

In the **DATES** section of this notice, we are including the new submissions deadlines. For additional information on the Comprehensive ESRD Care Model and how to apply, we refer readers to click on the Request for Applications located on the Innovation Center Web site at: *http://innovation.cms.gov/initiatives/comprehensive-ESRD-care.*

(No. 93.773 Medicare—Hospital Insurance Program; and No. 93.774, Medicare-Supplementary Medical Insurance Program)

Dated: July 9, 2013.

Marilyn Tavenner,

Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 2013–17131 Filed 7–16–13; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–0754]

Authorization of Emergency Use of an In Vitro Diagnostic for Detection of Middle East Respiratory Syndrome Coronavirus; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the issuance of an Emergency Use Authorization (EUA) (the Authorization) for an in vitro diagnostic device for detection of Middle East Respiratory Syndrome Coronavirus (MERS-CoV), formerly known as Novel Coronavirus 2012 or NCV–2012. FDA is issuing this Authorization under the Federal Food, Drug, and Cosmetic (the FD&C) Act, as requested by the Centers for Disease Control and Prevention (CDC). The Authorization contains, among other things, conditions on the emergency use of the authorized in vitro diagnostic device. The Authorization follows the determination by the Secretary of Health and Human Services (HHS) that there is a significant potential for a public health emergency that has a significant potential to affect national security or the health and security of U.S. citizens living abroad and that involves MERS-CoV. On the basis of such determination, the Secretary also declared that circumstances exist justifying the authorization of emergency use of in vitro diagnostics for detection of MERS-CoV subject to the terms of any authorization issued under the FD&C Act. The Authorization, which includes an explanation of the reasons for issuance, is reprinted in this document.

DATES: The Authorization is effective as of June 5, 2013.

ADDRESSES: Submit written requests for single copies of the EUA to the Office of Counterterrorism and Emerging Threats, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, Rm. 4121, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your request or include a fax number to which the Authorization may be sent. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the Authorization.

FOR FURTHER INFORMATION CONTACT: Luciana Borio, Assistant Commissioner for Counterterrorism Policy, Office of Counterterrorism and Emerging Threats, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, Rm. 4118, Silver Spring, MD 20993–0002, telephone 301–796–8510 (this is not a toll free number).

SUPPLEMENTARY INFORMATION:

I. Background

Section 564 of the FD&C Act (21 U.S.C. 360bbb–3), as amended by the Project BioShield Act of 2004 (Pub. L. 108–276) and the Pandemic and All-Hazards Preparedness Reauthorization Act of 2013 (Pub. L. 113–5), allows FDA to strengthen the public health protections against biological, chemical, nuclear, and radiological agents. Among other things, section 564 of the FD&C Act allows FDA to authorize the use of an unapproved medical product or an unapproved use of an approved medical product in certain situations. With this EUAauthority, FDA can help assure that medical countermeasures may be used in emergencies to diagnose, treat, or prevent serious or life-threatening diseases or conditions caused by biological, chemical, nuclear, or radiological agents when there are no adequate, approved, and available alternatives.

Section 564(b)(1) of the FD&C Act provides that, before an EUA may be issued, the Secretary of HHS must declare that circumstances exist justifying the authorization based on one of the following grounds: (1) A determination by the Secretary of Homeland Security that there is a domestic emergency, or a significant potential for a domestic emergency, involving a heightened risk of attack with a biological, chemical, radiological, or nuclear agent or agents; (2) a determination by the Secretary of Defense that there is a military emergency, or a significant potential for a military emergency, involving a heightened risk to U.S. military forces of attack with a biological, chemical, radiological, or nuclear agent or agents; (3) a determination by the Secretary of HHS that there is a public health emergency, or a significant potential for a public health emergency, that affects, or has a significant potential to affect, national security or the health and security of U.S. citizens living abroad, and that involves a biological, chemical, radiological, or nuclear agent or agents, or a disease or condition that may be attributable to such agent or agents; [1] or (4) the identification of a material threat by the Secretary of Homeland Security under section 319F–2 of the Public Health Service (PHS) Act (42 U.S.C. 247d–6b) sufficient to affect national security or the health and security of U.S. citizens living abroad.

Once the Secretary has declared that circumstances exist justifying an authorization under section 564 of the FD&C Act, FDA may authorize the emergency use of a drug, device, or biological product if the Agency concludes that the statutory criteria are satisfied. Under section 564(h)(1) of the FD&C Act, FDA is required to publish, in the **Federal Register**, a notice of each authorization, and each termination or revocation of an authorization, and an explanation of the reasons for the action. Section 564 of the FD&C Act permits FDA to authorize the introduction into interstate commerce of a drug, device, or biological product intended for use when the Secretary of HHS has declared that circumstances exist justifying the authorization of emergency use. Products appropriate for emergency use may include products and uses that are not approved, cleared, or licensed under sections 505, 510(k), or 515 of the FD&C Act (21 U.S.C. 355, 360(k), and 360e) or section 351 of the PHS Act (42 U.S.C. 262). FDA may issue an EUA only if, after consultation with the HHS Assistant Secretary for Preparedness and Response, the Director of the National Institutes of Health, and the Director of CDC (to the extent feasible and appropriate given the applicable circumstances), FDA [2] concludes: (1) That an agent referred to in a declaration of emergency or threat can cause a serious or life-threatening disease or condition; (2) that, based on the totality of scientific evidence available to FDA, including data from adequate and well-controlled clinical trials, if available, it is reasonable to believe that: (A) The product may be effective in diagnosing, treating, or preventing—(i) such disease or condition; or (ii) a serious or life-threatening disease or condition caused by a product authorized under section 564, approved or cleared under the FD&C Act, or licensed under section 351 of the PHS Act, for diagnosing, treating, or preventing such a disease or condition caused by such an agent; and (B) the known and potential benefits of the product, when used to diagnose, prevent, or treat such disease or condition, outweigh the known and potential risks of the product, taking into consideration the material threat posed by the agent or agents identified in a declaration under section 564(b)(1)(D) of the FD&C Act, if applicable; (3) that there is no adequate, approved, and available alternative to the product for diagnosing, preventing, or treating such disease or condition; and (4) that such other criteria as the Secretary of HHS may by regulation prescribe are satisfied.

No other criteria of issuance have been prescribed by regulation under section 564(c)(4) of the FD&C Act. Because the statute is self-executing, regulations or guidance are not required for FDA to implement the EUA authority.

II. EUA Request for an In Vitro Diagnostic for Detection of MERS-CoV

On May 29, 2013, under section 564(b)(1)(C) of the FD&C Act (21 U.S.C. 360bbb–3(b)(1)(C)), the Secretary of HHS determined that there is a significant potential for a public health emergency that has a significant potential to affect national security or the health and security of U.S. citizens living abroad and that involves MERS-CoV. Also on May 29, 2013, under section 564(b)(1) of the FD&C Act, and on the basis of such determination, the Secretary of HHS declared that circumstances exist justifying the authorization of emergency use of in vitro diagnostics for detection of MERS-CoV, subject to the terms of any authorization issued under section 564 of the FD&C Act. On May 31, 2013, CDC requested, and on June 5, 2013, FDA issued, an EUA for the CDC Novel Coronavirus 2012 Real-time RT–PCR Assay subject to the terms of this authorization.

III. Electronic Access

An electronic version of this document and the full text of the Authorization are available on the Internet at *http://www.regulations.gov.*

IV. The Authorization

Having concluded that the criteria for issuance of the Authorization under section 564(c) of the FD&C Act are met, FDA has authorized the emergency use of an in vitro diagnostic device for detection of MERS-CoV subject to the terms of the Authorization. The Authorization in its entirety (not including the authorized versions of the fact sheets and other written materials) follows and provides an explanation of the reasons for its issuance, as required by section 564(h)(1) of the FD&C Act:

BILLING CODE 4160–01–P

[1] As amended by the Pandemic and All-Hazards Preparedness Reauthorization Act of 2013, the Secretary of HHS may make a determination of a public health emergency, or a significant potential for a public health emergency, under section 564 of the FD&C Act. The Secretary is no longer required to make a determination of a public health emergency under section 319 of the PHS Act, 42 U.S.C. 247d, to support a determination made under section 564 of the FD&C Act.

[2] The Secretary of HHS has delegated the authority to issue an EUA under section 564 of the FD&C Act to the Commissioner of Food and Drugs.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration
Silver Spring, MD 20993

June 5, 2013

Thomas R. Frieden, MD, MPH
Director
Centers for Disease Control and Prevention
1600 Clifton Rd, MS D-14
Atlanta, GA 30333

Dear Dr. Frieden:

This letter is in response to your request that the Food and Drug Administration (FDA) issue an Emergency Use Authorization (EUA) for emergency use of the CDC Novel Coronavirus 2012 Real-time RT-PCR Assay for the presumptive detection of Middle East Respiratory Syndrome Coronavirus (MERS-CoV), formerly known as Novel Coronavirus 2012 or NCV-2012, in patients with signs and symptoms of MERS-CoV infection in conjunction with clinical and epidemiological risk factors, pursuant to section 564 of the Federal Food, Drug, and Cosmetic Act (the Act) (21 U.S.C. § 360bbb-3), by qualified laboratories.

On May 29, 2013, pursuant to section 564(b)(1)(C) of the Act (21 U.S.C. § 360bbb-3(b)(1)(C)), the Secretary of the Department of Health and Human Services (HHS) determined that there is a significant potential for a public health emergency that has a significant potential to affect national security or the health and security of United States citizens living abroad, and that involves a biological, chemical, radiological, or nuclear agent or agents, or a disease or condition that may be attributable to such an agent or agents—in this case, Middle East Respiratory Syndrome Coronavirus (MERS-CoV).[1] Pursuant to section 564(b)(1) of the Act (21 U.S.C. § 360bbb-3(b)(1)), and on the basis of such determination, the Secretary of HHS then declared that circumstances exist justifying the authorization of the emergency use of *in vitro* diagnostics for the detection of MERS-CoV, subject to the terms of any authorization issued under 21 U.S.C. § 360bbb-3(a).[2]

Having concluded that the criteria for issuance of this authorization under section 564(c) of the Act (21 U.S.C. § 360bbb-3(c)) are met, I am authorizing the emergency use of the CDC Novel Coronavirus 2012 Real-time RT-PCR Assay (as described in the scope section of this letter (Section II)) for the presumptive detection of MERS-CoV in patients with signs and symptoms of MERS-CoV infection in conjunction with clinical and epidemiological risk factors, subject to the terms of this authorization.

I. Criteria for Issuance of Authorization

[1] As amended by the Pandemic and All-Hazards Preparedness Reauthorization Act, Pub. L. No. 113-5, under section 564(b)(1)(C) of the Act the Secretary may make a determination of a public health emergency, or of a significant potential for a public health emergency.

[2] Memorandum, Determination of a Significant Potential for a Public Health Emergency and Declaration that Circumstances Exist Justifying an Authorization Pursuant to Section 564 of the Federal Food, Drug, and Cosmetic Act (May 29, 2013).

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I have concluded that the emergency use of the CDC Novel Coronavirus 2012 Real-time RT-PCR Assay for the presumptive detection of MERS-CoV in patients with signs and symptoms of MERS-CoV infection in conjunction with clinical and epidemiological risk factors meets the criteria for issuance of an authorization under section 564(c) of the Act, because I have concluded that:

1. MERS-CoV can cause a serious or life threatening disease or condition, including severe respiratory illness, to humans infected by this virus;

2. Based on the totality of scientific evidence available to FDA, it is reasonable to believe that the CDC Novel Coronavirus 2012 Real-time RT-PCR Assay may be effective in diagnosing MERS-CoV, and that the known and potential benefits of the CDC Novel Coronavirus 2012 Real-time RT-PCR Assay, when used for diagnosing MERS-CoV infection, outweigh the known and potential risks of such product; and

3. There is no adequate, approved, and available alternative to the emergency use of the CDC Novel Coronavirus 2012 Real-time RT-PCR Assay for diagnosing MERS-CoV.[3]

II. Scope of Authorization

I have concluded, pursuant to section 564(d)(1) of the Act, that the scope of this authorization is limited to the use of the authorized CDC Novel Coronavirus 2012 Real-time RT-PCR Assay for the presumptive detection of MERS-CoV in patients with signs and symptoms of MERS-CoV infection in conjunction with clinical and epidemiological risk factors.

The Authorized CDC Novel Coronavirus 2012 Real-time RT-PCR Assay:

The CDC Novel Coronavirus 2012 Real-time RT-PCR Assay is a real-time reverse transcriptase PCR (rRT-PCR) for the *in vitro* qualitative detection of MERS-CoV viral RNA from respiratory specimens (such as nasopharyngeal or oropharyngeal swabs, sputa, lower respiratory aspirates/washes), sera, and stool from patients with signs and symptoms of MERS-CoV infection in conjunction with clinical and epidemiological risk factors. The testing procedure consists of nucleic acid extraction followed by rRT-PCR on the FDA cleared Applied Biosystems 7500 Fast Dx Real-Time PCR Instrument.

The CDC Novel Coronavirus 2012 Real-time RT-PCR Assay includes the following primer and probe sets:

NCV.N2:	Targets the MERS-CoV nucleocapsid protein gene
NCV.N3:	Targets the MERS-CoV nucleocapsid protein gene
NCV.upE[4]:	Targets the MERS-CoV region upstream of envelope protein gene
RP[5]:	Targets the human Ribonuclease P gene. This primer and probe set is included as a control for specimen quality, to confirm that human

[3] No other criteria of issuance have been prescribed by regulation under section 564(c)(4) of the Act.

[4] This is a WHO-recommended MERS-CoV primer and probe set. See Corman VM, et al. Detection of a novel human coronavirus by real-time reverse-transcription polymerase chain reaction. *Euro Surveill*. 2012;17(39). Available online at: http://www.eurosurveillance.org/images/dynamic/EE/V17N39/art20285.pdf.

[5] This primer and probe set is not provided in the CDC Novel Coronavirus 2012 Real-time RT-PCR Assay Kit, but it is required for test performance. Laboratories will utilize the Laboratory Response Network (LRN) RNase P Real-time PCR Primer and Probe Set.

nucleic acid was successfully extracted from the clinical specimen.

The CDC Novel Coronavirus 2012 Real-time RT-PCR Assay also includes the following control materials:

- **Positive Control**: NCV-2012 rRT-PCR Assay Positive Control (VTC)
- **Negative Controls**: Sterile, nuclease-free water, used as No Template Control (NTC)
  1. **PCR No Template Control (NTC_1)**
  2. **Extraction control (NTC_2)**

The above described CDC Novel Coronavirus 2012 Real-time RT-PCR Assay, when labeled consistently with the labeling authorized by FDA, titled "CDC Novel Coronavirus 2012 Real-time RT-PCR Assay Instructions for Use" (available at http://www.fda.gov/MedicalDevices/Safety/EmergencySituations/ucm161496.htm), which may be revised with written permission of FDA, is authorized to be distributed to and used by qualified laboratories under this EUA, despite the fact that it does not meet certain requirements otherwise required by federal law.

The above described CDC Novel Coronavirus 2012 Real-time RT-PCR Assay is authorized to be accompanied by the following information pertaining to the emergency use, which is authorized to be made available to health care professionals and patients:

- **Fact Sheet for Health Care Professionals: Interpreting CDC Novel Coronavirus 2012 Real-time RT-PCR Assay Test Results**

- **Fact Sheet for Patients: Understanding Results from the CDC Novel Coronavirus 2012 Real-time RT-PCR Assay**

As described in section IV below, CDC is also authorized to make available additional information relating to the emergency use of the authorized CDC Novel Coronavirus 2012 Real-time RT-PCR Assay that is consistent with, and does not exceed, the terms of this letter of authorization.

I have concluded, pursuant to section 564(d)(2) of the Act, that it is reasonable to believe that the known and potential benefits of the authorized CDC Novel Coronavirus 2012 Real-time RT-PCR Assay in the specified population, when used for presumptive detection of MERS-CoV, outweigh the known and potential risks of such a product.

I have concluded, pursuant to section 564(d)(3) of the Act, based on the totality of scientific evidence available to FDA, that it is reasonable to believe that the authorized CDC Novel Coronavirus 2012 Real-time RT-PCR Assay may be effective in the diagnosis of MERS-CoV infection pursuant to section 564(c)(2)(A) of the Act. The FDA has reviewed the scientific information available including the information supporting the conclusions described in Section I above, and concludes that the authorized CDC Novel Coronavirus 2012 Real-time RT-PCR Assay, when used to diagnose MERS-CoV infection in the specified population, meets the criteria set forth in section 564(c) of the Act concerning safety and potential effectiveness.

The emergency use of the authorized CDC Novel Coronavirus 2012 Real-time RT-PCR Assay under this EUA must be consistent with, and may not exceed, the terms of this letter, including the scope and the conditions of authorization set forth below. Subject to the terms of this EUA and under the circumstances set forth in the Secretary of HHS's determination under section

564(b)(1)(C) described above and the Secretary of HHS's corresponding declaration under section 564(b)(1), the CDC Novel Coronavirus 2012 Real-time RT-PCR Assay described above is authorized to diagnose MERS-CoV infection in patients with signs and symptoms of MERS-CoV infection in conjunction with clinical and epidemiological risk factors.

This EUA will cease to be effective when the declaration of emergency is terminated under section 564(b)(2) of the Act or when the EUA is revoked under section 564(g) of the Act.

III. Waiver of Certain Requirements

I am waiving the following requirements for the CDC Novel Coronavirus 2012 Real-time RT-PCR Assay during the duration of this emergency use authorization:

- Current good manufacturing practice requirements, including the quality system requirements under 21 CFR Part 820 with respect to the design, manufacture, packaging, labeling, storage, and distribution of the CDC Novel Coronavirus 2012 Real-time RT-PCR Assay.

- Labeling requirements for cleared, approved, or investigational devices, including labeling requirements under 21 CFR 809.10 and 809.30, except for the intended use statement (21 CFR 809.10(a)(2), (b)(2)), adequate directions for use (21 U.S.C. 352(f)), (21 CFR 809.10(b)(5) and (8)), any appropriate limitations on the use of the device including information required under 21 CFR 809.10(a)(4), and any available information regarding performance of the device, including requirements under 21 CFR 809.10(b)(12).

IV. Conditions of Authorization

Pursuant to section 564 of the Act, I am establishing the following conditions on this authorization:

CDC

A. CDC will distribute the authorized CDC Novel Coronavirus 2012 Real-time RT-PCR Assay with the authorized labeling, as may be revised with written permission of FDA, only to qualified laboratories.
B. CDC will provide to the qualified laboratories the authorized CDC Novel Coronavirus 2012 Real-time RT-PCR Assay Fact Sheet for Health Care Professionals and the authorized CDC Novel Coronavirus 2012 Real-time RT-PCR Assay Fact Sheet for Patients.
C. CDC will make available on its website the authorized CDC Novel Coronavirus 2012 Real-time RT-PCR Assay Fact Sheet for Health Care Professionals and the authorized CDC Novel Coronavirus 2012 Real-time RT-PCR Assay Fact Sheet for Patients.
D. CDC will inform state and/or local public health authority(ies) of this EUA, including the terms and conditions herein.
E. CDC will ensure that qualified laboratories using the authorized CDC Novel Coronavirus 2012 Real-time RT-PCR Assay have a process in place for reporting test results to health care professionals and federal, state, and/or local public health authorities, as appropriate.
F. CDC will track adverse events and report to FDA as required under 21 CFR Part 803.

G. Through a process of inventory control, CDC will maintain records of device usage.
H. CDC will collect information on the performance of the assay, and report to FDA any suspected occurrence of false positive or false negative results of which CDC becomes aware.
I. CDC is authorized to make available additional information relating to the emergency use of the authorized CDC Novel Coronavirus 2012 Real-time RT-PCR Assay that is consistent with, and does not exceed, the terms of this letter of authorization.
J. Only CDC may request changes to the authorized CDC Novel Coronavirus 2012 Real-time RT-PCR Assay Fact Sheet for Health Care Professionals or the authorized CDC Novel Coronavirus 2012 Real-time RT-PCR Assay Fact Sheet for Patients. Such requests will be made by contacting FDA concerning FDA review and approval.

Qualified Laboratories

K. Qualified laboratories will make available the authorized Fact Sheet for Health Care Professionals and the authorized Fact Sheet for Patients.
L. Qualified laboratories will perform the assay on an Applied Biosystems 7500 Fast Dx Real-Time PCR Instrument with the appropriate software.
M. Qualified laboratories will have a process in place for reporting test results to health care professionals and federal, state, and/or local public health authorities, as appropriate.
N. Qualified laboratories will collect information on the performance of the assay, and report to CDC any suspected occurrence of false positive or false negative results of which qualified laboratories become aware.

CDC and Qualified Laboratories

O. CDC and qualified laboratories will ensure that any records associated with this EUA are maintained until notified by FDA. Such records will be made available to FDA for inspection upon request.

Conditions Related to Advertising and Promotion

P. All advertising and promotional descriptive printed matter relating to the use of the authorized CDC Novel Coronavirus 2012 Real-time RT-PCR Assay will be consistent with the Fact Sheets and authorized labeling, as well as the terms set forth in this EUA and other requirements set forth in the Act and FDA regulations.

Q. All advertising and promotional descriptive printed matter relating to the use of the CDC Novel Coronavirus 2012 Real-time RT-PCR Assay will clearly and conspicuously state that:

- This test has not been FDA cleared or approved;
- This test has been authorized by FDA under an Emergency Use Authorization for use by qualified laboratories;
- This test has been authorized only for the detection of MERS-CoV and not for any other viruses or pathogens; and

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- This test is only authorized for the duration of the declaration that circumstances exist justifying the authorization of the emergency use of *in vitro* diagnostics for detection of MERS-CoV under section 564(b)(1) of the Act, 21 U.S.C. § 360bbb-3(b)(1).

R. No advertising or promotional descriptive printed matter relating to the use of the authorized CDC Novel Coronavirus 2012 Real-time RT-PCR Assay may represent or suggest that this test is safe or effective for the diagnosis of MERS-CoV.

The emergency use of the authorized CDC Novel Coronavirus 2012 Real-time RT-PCR Assay as described in this letter of authorization must comply with the conditions above and all other terms of this authorization.

V. Duration of Authorization

This EUA will be effective until the declaration that circumstances exist justifying the authorization of the emergency use of *in vitro* diagnostics for detection of MERS-CoV is terminated under section 564(b)(2) of the Act or the EUA is revoked under section 564(g) of the Act.

Margaret A. Hamburg, M.D.
Commissioner of Food and Drugs

Enclosures

Dated: July 11, 2013.

Peter Lurie,

Acting Associate Commissioner for Policy and Planning.

[FR Doc. 2013–17103 Filed 7–16–13; 8:45 am]

BILLING CODE 4160–01–C

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2011–N–0592]

Yuri Izurieta; Conviction Reversal; Final Order Withdrawing Debarment Order

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The U.S. Food and Drug Administration (FDA) is issuing an order, under the Federal Food, Drug, and Cosmetic Act (the FD&C Act), withdrawing its January 25, 2012, order debarring Yuri Izurieta from importing food or offering food for importation into the United States. FDA is issuing this order because the U.S. Court of Appeals for the Eleventh Circuit issued an order vacating the conviction and sentence of Yuri Izurieta.

DATES: *Effective Date:* July 17, 2013.

FOR FURTHER INFORMATION CONTACT: Kenny Shade, Office of Regulatory Affairs, Food and Drug Administration, 12420 Parklawn Dr., Rockville, MD 20857, 301–796–4640.

SUPPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** on January 25, 2012 (77 FR 3776), FDA debarred Yuri Izurieta for a period of 20 years from importing articles of food or offering such articles for importation into the United States. FDA issued the debarment order under section 306(b)(1)(C) of the FD&C Act (21 U.S.C. 335a(b)(1)(C)), which permits FDA to debar an individual from importing an article of food or offering such an article for import into the United States if FDA finds, as required by section 306(b)(3)(A) of the FD&C Act (21 U.S.C. 335a(b)(3)(A)), that the individual has been convicted of a felony for conduct relating to the importation into the United States of any food. The debarment was based on FDA's finding that Mr. Izurieta was convicted of six felony counts under Federal law for conduct relating to the importation into the United States of an article of food. Mr. Izurieta was convicted on May 11, 2011, in the U.S. District Court for the Southern District of Florida and sentenced on July 29, 2011, for conspiracy to smuggle goods into the United States and smuggling goods into the United States. The basis for Mr. Izurieta's conviction was his alleged role in distributing shipments of dairy products that were adulterated and not authorized for entry into the United States. On August 3, 2011, Mr. Izurieta appealed his conviction and sentence.

On February 22, 2013, the U.S. Court of Appeals for the Eleventh Circuit issued an order vacating the conviction and sentence of Mr. Izurieta. A copy of the court's order is available in Docket No. FDA–2011–N–0592. By this order, the court vacated Mr. Izurieta's conviction. The order was issued as a mandate on April 23, 2013. Section 306(d)(3)(B)(i) of the FD&C Act (U.S.C. 335a(d)(3)(B)(i)) states that ''If the conviction which served as the basis for the debarment of an individual under subsection . . . (b)(3) is reversed, the Secretary shall withdraw the order of debarment.'':

Accordingly, the Acting Associate Commissioner for Regulatory Affairs, Office of Regulatory Affairs, under section 306(d)(3)(B)(i) of the FD&C Act and under authority delegated to the Associate Commissioner (Staff Manual Guide 1410.21), issues this order withdrawing the order of debarment of Yuri Izurieta, thereby allowing him to import food or offer such articles for importation into the United States. This order is effective July 17, 2013.

Dated: July 12, 2013.

Melinda K. Plaisier,

Acting Associate Commissioner for Regulatory Affairs, Office of Regulatory Affairs.

[FR Doc. 2013–17122 Filed 7–16–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2011–N–0589]

Anneri Izurieta; Conviction Reversal; Final Order Withdrawing Debarment Order

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The U.S. Food and Drug Administration (FDA) is issuing an order, under the Federal Food, Drug, and Cosmetic Act (the FD&C Act), withdrawing its January 13, 2012, order debarring Anneri Izurieta from importing food or offering food for importation into the United States. FDA is issuing this order because the U.S. Court of Appeals for the Eleventh Circuit issued an order vacating the conviction and sentence of Anneri Izurieta.

DATES: *Effective Date:* July 17, 2013.

FOR FURTHER INFORMATION CONTACT: Kenny Shade, Office of Regulatory Affairs, Food and Drug Administration, 12420 Parklawn Dr., Rockville, MD 20857, 301–796–4640.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** on January 13, 2012 (77 FR 2070), FDA debarred Anneri Izurieta for a period of 30 years from importing articles of food or offering such articles for importation into the United States. FDA issued the debarment order under section 306(b)(1)(C) of the FD&C Act (21 U.S.C. 335a(b)(1)(C)), which permits FDA to debar an individual from importing an article of food or offering such an article for importation into the United States if FDA finds, as required by section 306(b)(3)(A) of the FD&C Act (21 U.S.C. 335a(b)(3)(A)), that the individual has been convicted of a felony for conduct relating to the importation into the United States of any food. The debarment was based on FDA's finding that Ms. Izurieta was convicted of six felony counts under Federal law for conduct relating to the importation into the United States of an article of food. Ms. Izurieta, the president and director of Naver Trading, was convicted on May 11, 2011, and sentenced on July 29, 2011, for conspiracy to smuggle goods into the United States and smuggling goods into the United States. The basis for Ms. Izurieta's conviction was her alleged role in distributing shipments of dairy products that were adulterated and not authorized for entry into the United States. On August 3, 2011, Ms. Izurieta appealed her conviction and sentence.

On February 22, 2013, the U.S. Court of Appeals for the Eleventh Circuit issued an order vacating the conviction and sentence of Ms. Izurieta. A copy of the court's order is available in Docket No. FDA–2011–N–0589. By this order, the court vacated Ms. Izurieta's conviction. The order was issued as a mandate on April 23, 2013. Section 306(d)(3)(B)(i) of the FD&C Act (U.S.C. 335a(d)(3)(B)(i) states that ''If the conviction which served as the basis for the debarment of an individual under subsection . . . (b)(3) is reversed, the Secretary shall withdraw the order of debarment.''

Accordingly, the Acting Associate Commissioner for Regulatory Affairs, Office of Regulatory Affairs, under section 306(d)(3)(B)(i) of the FD&C Act and under authority delegated to the

Associate Commissioner (Staff Manual Guide 1410.21), issues this order withdrawing the order of debarment of Anneri Izurieta, thereby allowing her to import food or offer such articles for importation into the United States. This order is effective July 17, 2013.

Dated: July 12, 2013.

Melinda K. Plaisier,

Acting Associate Commissioner for Regulatory Affairs, Office of Regulatory Affairs.

[FR Doc. 2013–17123 Filed 7–16–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

School-Based Health Center Program

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

ACTION: Notice of Noncompetitive Replacement Award to the School Board of Gadsden County.

SUMMARY: HRSA will be transferring a School-Based Health Center Capital (SBHCC) Program grant, as authorized by the Patient Protection and Affordable Care Act (Affordable Care Act) (Pub. L. 111–148), Title IV, Section 4101(a)), originally awarded to ICAN/ICAN TOO Organization, Inc., Havana, Florida, in order to ensure that significant and pressing capital needs to improve service delivery and support the expansion of services at school-based health centers will continue.

SUPPLEMENTARY INFORMATION:

Former Grantee of Record: ICAN/ICAN TOO Organization, Inc.

Original Period of Grant Support: December 1, 2011, to November 30, 2013.

Replacement Awardee: The School Board of Gadsden County.

Amount of Replacement Award: The current award to ICAN/ICAN TOO Organization, Inc., was issued in the amount of $499,974. ICAN/ICAN TOO Organization, Inc., and The School Board of Gadsden County have agreed that the remaining amounts as of the date of this **Federal Register** Notice will be transferred.

Period of Replacement Award: The period of support for the replacement award is April 1, 2013, to November 30, 2013.

Authority: Patient Protection and Affordable Care Act (Affordable Care Act) ((Pub. L. 111–148), Title IV, Section 4101(a)).

CFDA Number: 93.501.

Justification for the Exception to Competition: The former grantee, ICAN/ICAN Too Organization, Inc., has requested that HRSA transfer the School-Based Health Center Capital Program funds to The School Board of Gadsden County to implement and carry out grant activities originally proposed under the ICAN/ICAN TOO Organization, Inc.'s, funded SBHCC grant application. The School Board of Gadsden County was originally identified as the sponsoring facility with ICAN/ICAN TOO Organization, Inc., on the implementation of the activities funded through the SBHCC grant and will continue to implement the same activities.

FOR FURTHER INFORMATION CONTACT: Matt Kozar, Supervisory Public Health Analyst, Bureau of Primary Health Care, HRSA, 5600 Fishers Lane, Rockville, MD 20857, via email at *MKozar@hrsa.gov;* or phone at 301–443–1034.

Dated: July 11, 2013.

Mary K. Wakefield,

Administrator.

[FR Doc. 2013–17127 Filed 7–16–13; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

American Indians Into Nursing; Notice of Competitive Grant Applications for American Indians Into Nursing Program

Announcement Type: Competing Continuation.

Funding Announcement Number: HHS–2013–IHS–NU–0001.

Catalog of Federal Domestic Assistance Number: 93.970.

Dates:

Key Dates

Application Deadline Date: August 19, 2013.

Review Date: August 22, 2013.

Earliest Anticipated Start Date: September 15, 2013.

Proof of Non-Profit Status Due Date: August 9, 2013.

I. Funding Opportunity Description

Statutory Authority

The Indian Health Service (IHS) Office of Public Health Support (OPHS) is accepting competitive cooperative agreement applications for the American Indians into Nursing Program (Section 112). This program is authorized under Section 112 of the Indian Health Care Improvement Act, Public Law 94–437, as amended (IHCIA), codified at 25 U.S.C. 1616e. This program is described in the Catalog of Federal Domestic Assistance under 93.970.

Background

The IHS, an agency within the Department of Health and Human Services (HHS), is responsible for providing Federal health services to American Indians and Alaska Natives (AI/AN). The mission of the IHS is to raise the physical, mental, social, and spiritual health of AI/AN. The IHCIA authorizes the IHS to administer programs that are designed to attract and recruit qualified individuals into health professions needed at IHS facilities. The programs administered are designed to encourage AI/AN to enter health professions and to ensure the availability of health professionals to serve AI/AN populations. Section 112 of the IHCIA requires IHS to administer the American Indians into Nursing Scholarship Program. Within the Section 112 program, IHS provides grants to colleges, universities, and other entities to develop and maintain nursing education programs and recruit individuals to become Registered Nurses, Certified Nurse Midwives, Nurse Practitioners and Certified Nurse Anesthetists who will provide services to AI/AN people. Nursing program scholarship grants may be used by the educational institution to provide scholarships to students enrolled in nursing education programs. According to the terms and conditions of the nursing program scholarship grant award, scholarship awards are for a 1-year period; additional scholarship support may be awarded to each eligible student for up to four years (maximum).

Purpose

The purpose of this IHS cooperative agreement is to augment the number of Registered Nurses, Certified Nurse Midwives, Nurse Practitioners and Certified Nurse Anesthetists who deliver health care services to AI/AN communities. The primary objectives of this cooperative agreement grant award are to: (1) Recruit and train individuals to be Registered Nurses (Associate Degree in Nursing (ADN), Bachelor of Science in Nursing (BSN)) and Advance Practice Nurses (Masters of Science in Nursing (MSN) and Doctor of Nursing Practice (DNP)); (2) Provide scholarships to individuals enrolled in schools of nursing to pay tuition, books, fees, and stipends for living expenses; (3) provide a program that encourages nurses (DNP, MSN, BSN, ADN) to

provide or continue to provide, health care services in health care programs, and (4) provide a program that increases the skills of, and provides continuing education to nurses (Graduate and Undergraduate).

II. Award Information

Type of Award

Cooperative Agreement.

Estimated Funds Available

The total amount of funding identified for the current fiscal year 2013 is approximately $1,669,697. Individual award amounts are anticipated to be between $300,000 and $350,000. Competing continuation awards issued under this announcement are subject to the availability of funds. In the absence of funding, the IHS is under no obligation to make awards that are selected for funding under this announcement.

Anticipated Number of Awards

Approximately four awards will be issued under this program announcement.

Project Period

The project period will be for three years and will run consecutively from September 15, 2013 to September 14, 2016.

Cooperative Agreement

In the HHS, a cooperative agreement is administered under the same policies as a grant. The funding agency (IHS) is required to have substantial programmatic involvement in the project during the entire award segment. Below is a detailed description of the level of involvement required for both IHS and the grantee. IHS will be responsible for activities listed under section A and the grantee will be responsible for activities listed under section B as stated:

Substantial Involvement Description for Cooperative Agreement

A. IHS Programmatic Involvement

(1) The IHS assigned program official will work closely with the project's Principal Investigator/Project Director to ensure timely receipt of the required semi-annual progress reports from each American Indians into Nursing grantee and review them for program compliance.

(2) The IHS assigned program official will provide programmatic technical assistance to the grantee as requested.

(3) The IHS assigned program official will coordinate and conduct site visits and semi-annually conference calls with grantees and students.

(4) The IHS assigned program official from the OPHS will work in partnership with the Division of Grants Management (DGM) to ensure all goals and objectives of the proposed project are met.

(5) The IHS assigned program official will provide an American Indians into Nursing scholarship handbook for student program review.

(6) The IHS assigned program official will initiate default proceedings within 90 days after receiving notification from the grantee that a student has been dismissed from the nursing program, withdrawn from school, failed to graduate with a nursing degree, or failed to get licensed and begin obligated service time within 90 days.

B. Grantee Cooperative Agreement Award Activities

(1) The American Indians into Nursing grantee must designate a Principal Investigator/Project Director. The Project Director is the individual designated by the grant applicant to manage the project or activity being supported by the grant. He/she is responsible for the scientific or technical direction of the project, the day-to-day management of the program, and is accountable to the grantee for the proper conduct of all grant related activities.

(2) The Project director must have a current curriculum vitae on file in the official grant file within DGM. In the case of a project director resigning, the grantee is required to notify DGM in writing immediately upon discovery. The grantee will notify the DGM of any new potential replacement project director for program approval within 30 days.

(3) The American Indians into Nursing grantee will award nursing scholarships to continuing and new students. The project director will meet with each student to review the IHS scholarship contract and scholarship recipient handbook.

(4) The American Indians into Nursing grantee will maintain academic and obligated service records using a secure Web based system for scholarship recipients. Those records shall include: student contract information/application; copy of award letter; signed copy of IHS scholarship contract; notification of academic problem or change; change of academic status; change in graduation date; leave of absence; name change; change of address; notice of impending graduation; placement update; and preferred assignment.

(5) The American Indians into Nursing grantee will submit all required documents to the IHS assigned program official upon graduation: official transcript; copy of license and certifications; letter of hire for Tribal/Urban employees; copy of SF–50 for Federal employees; and all status reports throughout the scholarship recipient's service obligation.

(6) The American Indians into Nursing grantee will submit student contracts, student information and initial student progress report 45 days after the start of the semester.

(7) The American Indians into Nursing grantee project director will monitor fulfillment of all contractual obligations incurred by nursing program scholarship recipients by requesting a student status report six months and one year after hire date.

(8) The American Indians into Nursing grantee project director is encouraged to have quarterly meeting with university/college grants and contract officer and college of business officers.

(9) The American Indians into Nursing grantee project director is expected to collaborate with other American Indians into Nursing project directors and staff under this grant program; and to share best practices, successes and challenges of the program. The American Indians into Nursing scholarship recipients will be required to participate in the annual IHS national nurse leaders meeting for workshop, mentorship and networking.

(10) The American Indians into Nursing grantee will complete an end of year report and ensure a budget report is submitted to IHS assigned program official and grants specialist 90 days after the budget period ends.

III. Eligibility Information

1. Eligible Applicants

Schools of nursing providing nursing education and conferring degrees are eligible for this award:

A. Accredited Public or Private schools of nursing,

B. Accredited Tribally controlled community colleges and Tribally controlled postsecondary vocational institutions (as defined in section 390(2) of the Tribally Controlled Vocational Institutions Support Act of 1990 (20 U.S.C. 2397h(2)), or

C. Nurse midwife programs and nurse practitioner programs that are provided by any public or private institution.

2. In Accordance With the IHCIA, Funding Preference Will Be Given to Applicants Who Have:

A. Programs that provide a preference to Indian students.

B. Programs that train nurse midwives, nurse practitioners, and nurse anesthetist.

C. Programs that are interdisciplinary with other health professional students such as medicine, pharmacy, dental and behavioral health students.

D. Programs that are conducted in cooperation with a center for gifted and talented Indian students established under section 5324 (a) of the Indian Education Act of 1988. If an eligible organization claims preference in order to be given priority, the organization must submit verifying documentation.

Note: Please refer to Section IV.2 (Application and Submission Information/ Subsection 2, Content and Form of Application Submission) for additional proof of applicant status documents required such as proof of non-profit status, etc.

3. Cost Sharing or Matching

The IHS does not require matching funds or cost sharing for grants or cooperative agreements.

4. Other Requirements

A. All schools must be state approved. All schools and training programs must have current, unrestricted accreditation by either the National League for Nursing Accrediting Commission (NLNAC) or American Association of Colleges of Nursing Commission on Collegiate Nursing Education (CCNE). All institutions must be fully accredited without restrictions.

B. The schools offering a degree in nurse midwifery must provide verification of accreditation by the American College of Nurse Midwives.

C. The schools offering a degree in nurse anesthesia must provide verification of accreditation by the Council of Accreditation of Nurse Anesthesia Educational Program (COA).

D. The Tribally controlled community college nursing programs and Tribally controlled post-secondary vocational institutions must be accredited by the NLNAC or other appropriately recognized nursing accrediting body.

E. All universities and colleges currently participating and submitting competing continuation proposals must include new objectives for this project period.

If application budgets exceed the highest dollar amount outlined under the ''Estimated Funds Available'' section within this funding announcement, the application will be considered ineligible and will not be reviewed for further consideration. If deemed ineligible, IHS will not return the application. The applicant will be notified by email by the Division of Grants Management (DGM) of this decision.

Proof of Non-Profit Status

Organizations claiming non-profit status must submit proof. A copy of the 501(c)(3) Certificate must be received with the application submission by the Application Deadline Date listed under the Key Dates section on page one of this announcement.

An applicant submitting any of the above additional documentation after the initial application submission due date is required to ensure the information was received by the IHS by obtaining documentation confirming delivery (i.e. FedEx tracking, postal return receipt, etc.).

IV. Application and Submission Information

1. Obtaining Application Materials

The application package and detailed instructions for this announcement can be found at *http://www.Grants.gov* or *https://www.ihs.gov/dgm/index.cfm?module=dsp_dgm_funding*.

Questions regarding the electronic application process may be directed to Mr. Paul Gettys at (301) 443–2114.

2. Content and Form Application Submission

The applicant must include the project narrative as an attachment to the application package. Mandatory documents for all applicants include:

- Table of contents.
- Abstract (one page) summarizing the project.
- Application forms:
  - SF–424, Application for Federal Assistance.
  - SF–424A, Budget Information—Non-Construction Programs.
  - SF–424B, Assurances—Non-Construction Programs.
- Budget Justification and Narrative (must be single spaced and not exceed five pages).
- Project Narrative (must be single spaced and not exceed ten pages).
  - Background information on the organization.
  - Proposed scope of work, objectives, and activities that provide a description of what will be accomplished, including a one-page Timeframe Chart.
- 501(c)(3) Certificate (if applicable).
- Biographical sketches for all Key Personnel.
- Contractor/Consultant resumes or qualifications and scope of work.
- Disclosure of Lobbying Activities (SF–LLL).
- Certification Regarding Lobbying (GG-Lobbying Form).
- Copy of current Negotiated Indirect Cost rate (IDC) agreement (required) in order to receive IDC.
- Organizational Chart (optional).
- Documentation of current Office of Management and Budget (OMB) A–133 required Financial Audit (if applicable). Acceptable forms of documentation include:
  - Email confirmation from Federal Audit Clearinghouse (FAC) that audits were submitted; or
  - Face sheets from audit reports. These can be found on the FAC Web site: *http://harvester.census.gov/sac/dissem/accessoptions.html?submit=Go+To+Database*

Public Policy Requirements

All Federal-wide public policies apply to IHS grants with exception of the Discrimination policy.

Requirements for Project and Budget Narratives

A. Project Narrative: This narrative should be a separate Word document that is no longer than ten pages and must: be single-spaced, be type written, have consecutively numbered pages, use black type not smaller than 12 characters per one inch, and be printed on one side only of standard size 8½″ x 11″ paper.

Be sure to succinctly answer all questions listed under the evaluation criteria (refer to Section V.1, Evaluation criteria in this announcement) and place all responses and required information in the correct section (noted below), or they will not be considered or scored. These narratives will assist the Objective Review Committee (ORC) in becoming more familiar with the grantee's activities and accomplishments prior to this grant award. If the narrative exceeds the page limit, only the first ten pages will be reviewed. The 10-page limit for the narrative does not include the work plan, standard forms, Tribal resolutions, table of contents, budget, budget justifications, narratives, and/or other appendix items.

Part A: Program Information (3-Page Limitation)

Section 1: Needs

The American Indians Into Nursing Program

1. Describe how the proposed American Indians into Nursing program will maintain academic and obligated service records using a secure web based system for scholarship recipients: Student contract information/ application, copy of award letter, signed copy of IHS Scholarship contract,

notification of academic problem or change, change of academic status, change in graduation date, leave of absence, name change, change of address, notice of impending graduation, placement update, and preferred assignment.

2. Describe how the proposed American Indians into Nursing program coordinator will monitor fulfillment of all contractual obligations incurred by nursing program scholarship recipients.

3. Describe how the proposed American Indians into Nursing program will complete the following activities: submitting semi-annual status reports, annual reports and budget reports by designated deadline to assure program compliance.

4. Describe how the proposed American Indians into Nursing program will notify IHS assigned program official of new and continuing students scholarship awards and submission of IHS contracts within 45 days of student scholarship awards.

Part B: Program Planning and Evaluation (5-Page limitation)

Section 1: Program Plans

Describe fully and clearly how the applicant will complete the following and include proposed timelines for completing these activities:

1. Attract and recruit for the associates, baccalaureate, masters and doctorate nursing programs.

2. Provide mechanisms and resources to increase nursing student enrollment, retention, and graduation.

3. Process for advertising, selecting and notifying Section 112 scholarship to nursing students

4. Provide activities that increase the skills and provide continuing education at the graduate and undergraduate level for nurses who deliver health services to the AI/AN population.

5. Provide support to the American Indians into Nursing program utilizing career counseling; academic advice; plans to correct academic deficiencies; and other activities to assist student retention.

Section 2: Program Evaluation

1. Describe fully and clearly the program plans for evaluating success in carrying out the project and on an annual basis conduct a quantitative and qualitative evaluation of the year's activity, identifying what areas of the project need to be improved and how the applicant will make those improvements.

2. Applicants must identify how they will meet on an annual basis with the other project directors and staff under this grant program to share best practices, successes and challenges and to receive Federal grant training.

Part C: Program Report (Current Grantee only) (5-Page Limitation)

Section 1: Describe major accomplishments over the last 24 months.

Please identify and describe significant program achievements associated with the program objectives. Provide a comparison of the actual program accomplishments to the goals established for the project period, or, if applicable, provide justification for the lack of progress.

Section 2: Describe major activities over the last 5 years.

Please identify and summarize major project activities during the project period to improve the management of the grant program.

B. Budget Narrative: This narrative must describe the budget requested and match the scope of work described the project narrative. The budget narrative should not exceed five pages.

1. Submission Dates and Times

Applications must be submitted electronically through Grants.gov by 12:00 a.m., midnight Eastern Daylight Time (EDT) on the Application Deadline Date listed in the Key Dates section on page one of this announcement. Any application received after the application deadline will not be accepted for processing, nor will it be given further consideration for funding. The applicant will be notified by the DGM via email of this decision.

If technical challenges arise and assistance is required with the electronic application process, contact Grants.gov Customer Support via email to *support@grants.gov* or at (800) 518–4726. Customer Support is available to address questions 24 hours a day, 7 days a week (except on Federal holidays). If problems persist, contact Mr. Paul Gettys, DGM *(Paul.Gettys@ihs.gov)* at (301) 443–2114. Please be sure to contact Mr. Gettys at least ten days prior to the application deadline. Please do not contact the DGM until you have received a Grants.gov tracking number. In the event you are not able to obtain a tracking number, call the DGM as soon as possible.

If the applicant needs to submit a paper application instead of submitting electronically via Grants.gov, prior approval must be requested and obtained (see Section IV.6 below for additional information). The waiver must be documented in writing (emails are acceptable), *before* submitting a paper application. A copy of the written approval must be submitted along with the hardcopy that is mailed to the DGM. Once the waiver request has been approved, the applicant will receive a confirmation of approval and the mailing address to submit the application. Paper applications that are submitted without a waiver from the Acting Director of DGM will not be reviewed or considered further for funding. The applicant will be notified via email of this decision by the Grants Management Officer of DGM. Paper applications must be received by the DGM no later than 5:00 p.m., EDT, on the Application Deadline Date listed in the Key Dates section on page one of this announcement. Late applications will not be accepted for processing or considered for funding.

2. Intergovernmental Review

Executive Order 12372 requiring intergovernmental review is not applicable to this program.

3. Funding Restrictions

- Pre-award costs are not allowable.
- The available funds are inclusive of direct and appropriate indirect costs.
- Only one grant/cooperative agreement will be awarded per applicant.
- IHS will not acknowledge receipt of applications.

4. Electronic Submission Requirements

All applications must be submitted electronically. Please use the *http://www.Grants.gov* Web site to submit an application electronically and select the ''Find Grant Opportunities'' link on the homepage. Download a copy of the application package, complete it offline, and then upload and submit the completed application via the *http://www.Grants.gov* Web site. Electronic copies of the application may not be submitted as attachments to email messages addressed to IHS employees or offices.

If the applicant receives a waiver to submit paper application documents, the applicant must follow the rules and timelines that are noted below. The applicant must seek assistance at least ten days prior to the Application Deadline Date listed in the Key Dates section on page one of this announcement.

Applicants that do not adhere to the timelines for System for Award Management (SAM) and/or *http://www.Grants.gov* registration or that fail to request timely assistance with technical issues will not be considered for a waiver to submit a paper application.

Please be aware of the following:

• Please search for the application package in *http://www.Grants.gov* by entering the CFDA number or the Funding Opportunity Number. Both numbers are located in the header of this announcement.

• If you experience technical challenges while submitting your application electronically, please contact Grants.gov Support directly at: *support@grants.gov* or (800) 518–4726. Customer Support is available to address questions 24 hours a day, 7 days a week (except on Federal holidays).

• Upon contacting Grants.gov, obtain a tracking number as proof of contact. The tracking number is helpful if there are technical issues that cannot be resolved and a waiver from the agency must be obtained.

• If it is determined that a waiver is needed, the applicant must submit a request in writing (emails are acceptable) to *GrantsPolicy@ihs.gov* with a copy to *Tammy.Bagley@ihs.gov.* Please include a clear justification for the need to deviate from the standard electronic submission process.

• If the waiver is approved, the application should be sent directly to the DGM by the Application Deadline Date listed in the Key Dates section on page one of this announcement.

• Applicants are strongly encouraged not to wait until the deadline date to begin the application process through Grants.gov as the registration process for SAM and Grants.gov could take up to fifteen working days.

• Please use the optional attachment feature in Grants.gov to attach additional documentation that may be requested by the DGM.

• All applicants must comply with any page limitation requirements described in this Funding Announcement.

• After electronically submitting the application, the applicant will receive an automatic acknowledgment from Grants.gov that contains a Grants.gov tracking number. The DGM will download the application from Grants.gov and provide necessary copies to the appropriate agency officials. Neither the DGM nor the OPHS will notify the applicant that the application has been received.

• Email applications will not be accepted under this announcement.

Dun and Bradstreet (D&B) Data Universal Numbering System (DUNS)

All IHS applicants and grantee organizations are required to obtain a DUNS number and maintain an active registration in the SAM database. The DUNS number is a unique 9-digit identification number provided by D&B which uniquely identifies each entity. The DUNS number is site specific; therefore, each distinct performance site may be assigned a DUNS number. Obtaining a DUNS number is easy, and there is no charge. To obtain a DUNS number, please access it through *http://fedgov.dnb.com/webform,* or to expedite the process, call (866) 705–5711.

All HHS recipients are required by the Federal Funding Accountability and Transparency Act of 2006, as amended (''Transparency Act''), to report information on subawards. Accordingly, all IHS grantees must notify potential first-tier subrecipients that no entity may receive a first-tier subaward unless the entity has provided its DUNS number to the prime grantee organization. This requirement ensures the use of a universal identifier to enhance the quality of information available to the public pursuant to the Transparency Act.

System for Award Management (SAM)

Organizations that were not registered with Central Contractor Registration (CCR) and have not registered with SAM will need to obtain a DUNS number first and then access the SAM online registration through the SAM home page at *https://www.sam.gov* (U.S. organizations will also need to provide an Employer Identification Number from the Internal Revenue Service that may take an additional 2–5 weeks to become active). Completing and submitting the registration takes approximately one hour to complete and SAM registration will take 3–5 business days to process. Registration with the SAM is free of charge. Applicants may register online at *https://www.sam.gov.*

Additional information on implementing the Transparency Act, including the specific requirements for DUNS and SAM, can be found on the IHS Grants Management, Grants Policy Web site: *https://www.ihs.gov/dgm/index.cfm?module=dsp_dgm_policy_topics.*

V. Application Review Information

The instructions for preparing the application narrative also constitute the evaluation criteria for reviewing and scoring the application. Weights assigned to each section are noted in parentheses. The 10-page narrative should include only the first year of activities; information for multi-year projects should be included as an appendix. See ''Multi-year Project Requirements'' at the end of this section for more information. The narrative section should be written in a manner that is clear to outside reviewers unfamiliar with prior related activities of the applicant. It should be well organized, succinct, and contain all information necessary for reviewers to understand the project fully. Points will be assigned to each evaluation criteria adding up to a total of 100 points. A minimum score of 70 points is required for funding. Points are assigned as follows:

1. Criteria

A. In accordance with the IHCIA, funding preference will be given to applicants who have: (20 points)

1. Programs that provide a preference to Indian students.

2. Programs that train nurse midwives, nurse practitioners, and nurse anesthetist.

3. Programs that are interdisciplinary with other health professional students such as medicine, pharmacy, dental and behavioral health students.

4. Programs that are conducted in cooperation with a center for gifted and talented Indian students established under section 5324(a) of the Indian Education Act of 1988. If an eligible organization claims preference in order to be given priority, the organization must submit verifying documentation.

B. In addition, in scoring applications, a preference will be provided to the following: (10 points)

1. Programs that provide nursing education which have an emphasis on leadership related competencies and health care innovation.

2. Programs that provide nursing education which have an emphasis on transcultural nursing and cultural competency.

3. Programs whose curriculum has a rural health care focus.

4. Programs that integrate an Evidence Based Practice (EBP) curriculum.

5. Programs which have student clinical rotations established or plan to establish clinical rotations with Indian health programs. The organization must submit letter of intent from the Indian health program.

6. Programs which offer formal bridge program agreements between Tribal colleges or universities so as to accommodate ADN to BSN, BSN to MSN, and MSN to DNP students.

7. Programs which have a faculty exchange program between a Tribal college or university and a university school of nursing, so as to enhance cultural relevance, competency and faculty strength.

C. Introduction and Need for Assistance (15 Points)

1. Applicants must justify the need for their project and provide a plan for the

methodology they will use for recruiting nursing students nation-wide, provide a program that encourages AI/AN nurses at the graduate and undergraduate level; and provide a program that increases the skills of and provides continuing education to nurses at the graduate and undergraduate level.

2. Applicants should identify their experience with other similar projects, including the results of those projects and provide evidence of their past or potential cooperation and experience with AI/AN communities and Tribes.

3. Applicants should demonstrate substantial benefit to Indian health programs.

D. Project Objective(s), Work Plan and Approach (20 Points)

1. Applicants must clearly describe how they will recruit and train individuals to be nurses at the graduate and undergraduate level and to provide scholarships to students enrolled in the college of nursing to pay tuition, books, fees, and stipends for living expenses.

2. Applicants must clearly describe how the program will provide support services to nursing students to facilitate their success in the nursing program as well as track their progress.

3. Applicants must clearly describe how the program will assist the graduate nurse with job placement and track their payback status to ensure service obligation is fulfilled.

4. Applicants should have a mechanism in place to provide their students with clinical rotation in AI/AN health programs; have a bridge program between Tribal colleges or universities so as to accommodate ADN to BSN, BSN to MSN/DNP and have a faculty exchange program with Tribal college or university and the university school of nursing.

E. Program Evaluation (20 Points)

1. Present a plan for evaluating success in carrying out the project on a day-to-day project operation and conduct a quantitative and qualitative evaluation of the year's activities.

2. Identify how the program will adequately document project objectives; and identify what areas of the project need improvements.

3. Demonstrate the detailed steps and timeline to effectively achieve proposed methodology and evaluation plan.

4. Identify how the program director will meet with other project directors and staff on annual basis to share best practices, successes and challenges.

F. Organizational Capabilities, Key Personnel and Qualifications (5 Points)

1. Provide an organizational chart and describe the administrative, managerial and organization arrangements and the facilities and resources to be utilized to conduct the proposed project.

2. List the key personnel who will work with the program. In the appendix, include position descriptions and resumes of program director and key staff with duties and experience. Describe who will be writing progress report.

3. Describe any prior experience in administering similar project.

G. Categorical Budget and Budget Justification (10 Points)

1. Clearly define the budget. Provide a justification and detailed breakdown of the funding by category for the first year of the project. Information on the project director and project staff should include salaries and percentage of time assigned to the grant. List equipment purchases necessary to conduct the project.

2. The applicant may include as a direct cost tuition and student support for students who have been selected to receive a scholarship through the American Indians into Nursing grant. Scholarship support consists of full time tuition/fees/books/other expenses to include uniforms and monthly stipends for living expenses for 12 months. The current stipend is to be $1500 per month.

Multi-Year Project Requirements

Projects requiring second, third, fourth, and/or fifth year must include a brief project narrative and budget (one additional page per year) addressing the developmental plans for each additional year of the project in an appendix

Appendix Items

- Work plan, logic model and/or time line for proposed objectives.
- Position descriptions for key staff.
- Resumes of key staff that reflect current duties.
- Consultant or contractor proposed scope of work and letter of commitment (if applicable).
- Current Indirect Cost Agreement.
- Organizational chart(s) highlighting proposed project staff and their supervisors as well as other key contacts within the organization and key community contacts.
- Additional documents to support narrative (i.e. data tables, key news articles, etc.).

1. Review and Selection

Each application will be prescreened by the DGM staff for eligibility and completeness as outlined in the funding announcement. Incomplete applications and applications that are non-responsive to the eligibility criteria will not be referred to the ORC. Applicants will be notified by DGM, via email, to outline minor missing components (i.e., signature on the SF–424, audit documentation, key contact form) needed for an otherwise complete application. All missing documents must be sent to DGM on or before the due date listed in the email of notification of missing documents required.

To obtain a minimum score for funding by the ORC, applicants must address all program requirements and provide all required documentation. If an applicant receives less than a minimum score, it will be considered to be ''Disapproved'' and will be informed via email by the IHS Program Office of their application's deficiencies. A summary statement outlining the strengths and weaknesses of the application will be provided to each disapproved applicant. The summary statement will be sent to the Authorized Organizational Representative that is identified on the face page (SF–424), of the application within 30 days of the completion of the Objective Review.

VI. Award Administration Information

Award Notices

The Notice of Award (NoA) is a legally binding document signed by the Grants Management Officer and serves as the official notification of the grant award. The NoA will be initiated by the DGM in our grant system, GrantSolutions (*https://www.grantsolutions.gov*). Each entity that is approved for funding under this announcement will need to request or have a user account in GrantSolutions in order to retrieve their NoA. The NoA is the authorizing document for which funds are dispersed to the approved entities and reflects the amount of Federal funds awarded, the purpose of the grant, the terms and conditions of the award, the effective date of the award, and the budget/project period.

Disapproved Applicants

Applicants who received a score less than the recommended funding level for approval, 70, and were deemed to be disapproved by the ORC, will receive an Executive Summary Statement from the IHS program office within 30 days of the conclusion of the ORC outlining the weaknesses and strengths of their

application submitted. The IHS program office will also provide additional contact information as needed to address questions and concerns as well as provide technical assistance if desired.

Approved But Unfunded Applicants

Approved but unfunded applicants that met the minimum scoring range and were deemed by the ORC to be ''Approved,'' but were not funded due to lack of funding, will have their applications held by DGM for a period of one year. If additional funding becomes available during the course of FY 2013, the approved application may be re-considered by the awarding program office for possible funding. The applicant will also receive an Executive Summary Statement from the IHS program office within 30 days of the conclusion of the ORC.

Note: Any correspondence other than the official NoA signed by an IHS Grants Management Official announcing to the Project Director that an award has been made to their organization is not an authorization to implement their program on behalf of IHS.

1. Administrative Requirements

Cooperative agreements are administered in accordance with the following regulations, policies, and OMB cost principles:

A. The criteria as outlined in this Program Announcement.

B. Administrative Regulations for Grants:

- 45 CFR Part 92, Uniform Administrative Requirements for Grants and Cooperative Agreements to State, Local and Tribal Governments.
- 45 CFR Part 74, Uniform Administrative Requirements for Awards and Subawards to Institutions of Higher Education, Hospitals, and other Non-profit Organizations.

C. Grants Policy:

- HHS Grants Policy Statement, Revised 01/07.

D. Cost Principles:

- 2 CFR Part 225—Cost Principles for State, Local, and Indian Tribal Governments (OMB Circular A–87).
- 2 CFR Part 230—Cost Principles for Non-Profit Organizations (OMB Circular A–122).

E. Audit Requirements:

- OMB Circular A–133, Audits of States, Local Governments, and Non-profit Organizations.

2. Indirect Costs

This section applies to all grant recipients that request reimbursement of indirect costs (IDC) in their grant application. In accordance with HHS Grants Policy Statement, Part II–27, IHS requires applicants to obtain a current IDC rate agreement prior to award. The rate agreement must be prepared in accordance with the applicable cost principles and guidance as provided by the cognizant agency or office. A current rate covers the applicable grant activities under the current award's budget period. If the current rate is not on file with the DGM at the time of award, the IDC portion of the budget will be restricted. The restrictions remain in place until the current rate is provided to the DGM.

Generally, IDC rates for IHS grantees are negotiated with the Division of Cost Allocation (DCA) *https://rates.psc.gov/* and the Department of Interior (Interior Business Center) *http://www.doi.gov/ibc/services/Indirect_Cost_Services/index.cfm*. For questions regarding the indirect cost policy, please call (301) 443–5204 to request assistance.

3. Reporting Requirements

The grantee must submit required reports consistent with the applicable deadlines. Failure to submit required reports within the time allowed may result in suspension or termination of an active grant, withholding of additional awards for the project, or other enforcement actions such as withholding of payments or converting to the reimbursement method of payment. Continued failure to submit required reports may result in one or both of the following: (1) The imposition of special award provisions; and (2) the non-funding or non-award of other eligible projects or activities. This requirement applies whether the delinquency is attributable to the failure of the grantee organization or the individual responsible for preparation of the reports. Reports must be submitted electronically via GrantSolutions. Personnel responsible for submitting reports will be required to obtain a login and password for GrantSolutions. Please see the Agency Contacts list in section VII for the systems contact information.

The reporting requirements for this program are noted below.

A. Progress Reports

Program progress reports are required semi-annually, within 30 days after the budget period ends. These reports must include a brief comparison of actual accomplishments to the goals established for the period, or, if applicable, provide sound justification for the lack of progress, and other pertinent information as required. A final report must be submitted within 90 days of expiration of the budget/project period.

B. Financial Reports

Federal Financial Report FFR (SF–425), Cash Transaction Reports are due 30 days after the close of every calendar quarter to the Division of Payment Management, HHS at: *http://www.dpm.psc.gov*. It is recommended that the applicant also send a copy of the FFR (SF–425) report to the Grants Management Specialist. Failure to submit timely reports may cause a disruption in timely payments to the organization.

Grantees are responsible and accountable for accurate information being reported on all required reports: The Progress Reports and Federal Financial Report.

C. Federal Subaward Reporting System (FSRS)

This award may be subject to the Transparency Act subaward and executive compensation reporting requirements of 2 CFR Part 170.

The Transparency Act requires the OMB to establish a single searchable database, accessible to the public, with information on financial assistance awards made by Federal agencies. The Transparency Act also includes a requirement for recipients of Federal grants to report information about first-tier subawards and executive compensation under Federal assistance awards.

IHS has implemented a Term of Award into all IHS Standard Terms and Conditions, NoAs and funding announcements regarding the FSRS reporting requirement. This IHS Term of Award is applicable to all IHS grant and cooperative agreements issued on or after October 1, 2010, with a $25,000 subaward obligation dollar threshold met for any specific reporting period. Additionally, all new (discretionary) IHS awards (where the project period is made up of more than one budget period) and where: 1) the project period start date was October 1, 2010 or after and 2) the primary awardee will have a $25,000 subaward obligation dollar threshold during any specific reporting period will be required to address the FSRS reporting. For the full IHS award term implementing this requirement and additional award applicability information, visit the Grants Management Grants Policy Web site at: *https://www.ihs.gov/dgm/index.cfm?module=dsp_dgm_policy_topics.*

Telecommunication for the hearing impaired is available at: TTY (301) 443–6394.

VII. Agency Contacts

1. Questions on the programmatic issues may be directed to: Naomi A. Aspaas, BSN, RN, Office of Public Health Support, 801 Thompson Avenue, TMP Suite 450, Rockville, Maryland 20852, Telephone: (301) 443–2362, Fax: (301) 443–6048, Email: *Naomi.aspaas@ihs.gov.*

2. Questions on grants management and fiscal matters may be directed to: Andrew Diggs, Grants Management Specialist, 801 Thompson Avenue, TMP Suite 360, Rockville, Maryland 20850, Phone: (301) 443–2262, Email: *Andrew.diggs@ihs.gov.*

3. Questions on systems matters may be directed to: Paul Gettys, Grant Systems Coordinator, 801 Thompson Avenue, TMP Suite 360, Rockville, MD 20852, Phone: 301–443–2114; or the DGM main line 301–443–5204, Fax: 301–443–9602, Email: *Paul.Gettys@ihs.gov.*

VIII. Other Information

The Public Health Service strongly encourages all cooperative agreement and contract recipients to provide a smoke-free workplace and promote the non-use of all tobacco products. In addition, Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities (or in some cases, any portion of the facility) in which regular or routine education, library, day care, health care, or early childhood development services are provided to children. This is consistent with the HHS mission to protect and advance the physical and mental health of the American people.

Dated: July 8, 2013.

Yvette Roubideaux,

Acting Director, Indian Health Service.

[FR Doc. 2013–17159 Filed 7–16–13; 8:45 am]

BILLING CODE 4165–16–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB review; 30-Day Comment Request: Evaluation of the Brain Disorders in the Developing World Program of the John E. Fogarty International Center

SUMMARY: Under the provisions of Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below. This proposed information collection was previously published in the **Federal Register** on April 2, 2013, page 19723 and allowed 60-days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment. The John E. Fogarty International Center (FIC), National Institutes of Health, may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Direct Comments to OMB: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, *OIRA_submission@omb.eop.gov* or by fax to 202–395–6974, Attention: NIH Desk Officer.

Comment Due Date: Comments regarding this information collection are best assured of having their full effect if received within 30-days of the date of this publication.

FOR FURTHER INFORMATION CONTACT: To obtain a copy of the data collection plans and instruments or request more information on the proposed project contact: Dr. Rachel Sturke, Evaluation Officer, Division of Policy, Planning and Evaluation, FIC, NIH, Building 16, Room 202, 16 Center Drive, Bethesda, MD 20892, or call non-toll-free number (301)–496–1491 or Email your request, including your address to: *sturkerachel@mail.nih.gov.* Formal requests for additional plans and instruments must be requested in writing.

Proposed Collection: Evaluation of the Brain Disorders in the Developing World Program of the John E. Fogarty International Center, 0925-New, Fogarty International Center (FIC), National Institutes of Health (NIH).

Need and Use of Information Collection: This study seeks to evaluate the management, effectiveness, and outcomes of the Brain Disorders in the Developing World extramural research program administered by the John E. Fogarty International Center of NIH. The purpose of the Brain Disorders in the Developing World program is to develop collaborative research and capacity building projects on brain disorders throughout life relevant to low- and middle-income countries. Awardees are expected to develop innovative projects that contribute to the long-term goal of building sustainable research capacity in nervous system function and impairment throughout life. Between FY 2003 and 2012, a total of 148 awards were made under the Brain Disorders program, and the total investment by Fogarty and its partners at NIH has been approximately $75 million. The findings of this evaluation study will provide valuable information concerning: (1) Whether and how the program has met its goal of supporting research and research capacity-building on brain disorders in low- and middle-income countries; (2) the extent to which the program as implemented functions efficiently and effectively; (3) the extent to which the program is consistent with the strategic priorities of Fogarty and its partners at NIH; (4) opportunities to improve upon the current implementation of the program; and (5) models, best practices, and lessons learned that may be applicable to other NIH programs, now and in the future.

OMB approval is requested for 1 year. There are no costs to respondents other than their time. The total estimated annualized burden hours are 123.

ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Type of respondent	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total annual burden hour
Awardee Survey (LMIC)	Researchers	112	1	35/60	65
Awardee Survey (US)	Researchers	99	1	35/60	58

Dated: July 3, 2013.

Dexter Collins,

Executive Officer, John E. Fogarty International Center, National Institutes of Health.

[FR Doc. 2013–17132 Filed 7–16–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5683–N–62]

30-Day Notice of Proposed Information Collection: HUD Standard Grant Application Forms: Detailed Budget Form (HUD–424–CB), Budget Worksheet (HUD–424CBW), Application for Federal Assistance (SF–424), and the Third-Party Documentation Facsimile Transmittal Form (HUD–96011)

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD has submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for an additional 30 days of public comment.

DATES: *Comments Due Date:* August 16, 2013.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. Email: *OIRA_Submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone 202–402–3400. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD has submitted to OMB a request for approval of the information collection described in Section A. The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on April 30, 2013.

A. Overview of Information Collection

Title of Information Collection: HUD Standard Grant Application Forms: Detailed Budget Form (HUD–424–CB), Budget Worksheet (HUD–424CBW), Application for Federal Assistance (SF–424), and the Third-Party Documentation Facsimile Transmittal Form (HUD–96011).

OMB Approval Number: 2501–0017.

Type of Request: Reinstatement, without change of a previously approved collection.

Form Number: HUD–424CB and HUD–424CBW.

Description of the need for the information and proposed use: The use of the Third-Party Documentation Facsimile Transmittal Form allows the Department to collect the same information electronically as we would for a paper-based application. It also produces an electronic version of the document that will be matched with the electronic application submitted through grants.gov to HUD. *Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response:* An estimation of the total number of hours needed to prepare the forms for each grant application is 5 minutes per response, however, the burden will be assessed against each individual grant program submission under the Paperwork Reduction Act; number of respondents is 33,000 frequency of response is on the occasion of application for benefits.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: July 9, 2013.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2013–17065 Filed 7–16–13; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5683–N–61]

30-Day Notice of Proposed Information Collection: Submission Requirements for the Capital Advance Program Section 202/811

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD has submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for an additional 30 days of public comment.

DATES: *Comments Due Date:* August 16, 2013.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. Email: *OIRA_Submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone 202–402–3400. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD has submitted to OMB a request for approval of the information collection

described in Section A. The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on March 27, 2013.

A. Overview of Information Collection

Title of Information Collection: Submission Requirements for the Capital Advance Program Section 202/811.

OMB Approval Number: 2502–0470.

Type of Request: Extension of a currently approved.

Form Number: 92013, HUD 90167–CA, 93566–CA, FM1006, 2453.1–CA, 9832, 9839–A, 9839–B, 2880, 1199a, SF1199A, SF LLL, 90172A–CA, 92443–CA, 92450–CA, 92452–A, 92452–CA, 90175–CA, 92264, 92464, 90166A–CA, 90173A–CA, 92452, 92013–SUPP, 935.2, 92458, 2530, 93566.1–CA, 93480, 2328, 2554, HUD–90163–CA, 90164–CA, 90165–CA, 90166–CA, 90170–CA, 90171–CA, 90176–CA, 90177–CA, 91732A–CA, 90169.1–CA, 90169–CA, 92330–A, 90172B–CA, 90173B–CA, 90173C–CA, 90175.1–CA, 90178–CA, 90179–CA, 92329, 92330, 92331, 92403–1, 92403–CA, 92433–CA, 92434–CA, 92435–CA, 92437, 92442A–CA, 92442–CA, 92448, 92457, 92466.1–CA, 92466–CA, 92476–A, 92476A–CA, 92485, 92580–CA, 93432–CA, 93479, 93481.

Description of the need for the information and proposed use: This submission, for which the Department is requesting clearance, is to permit the continued processing of all Sections 202 and 811 capital advance projects that have not yet been finally closed. The submission includes processing of the application for firm commitment to final closing of the capital advance. It is needed to assist HUD in determining the Owner's eligibility and capacity to finalize the development of a housing project under the Section 202 and Section 811 Capital Advance Programs. A thorough evaluation of an Owner's capabilities is critical to protect the Government's financial interest and to mitigate any possibility of fraud, waste and mismanagement of public funds.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: The number of burden hours is 8,348. The number of respondents is 195, the number of responses is 7,809, the frequency of response is on occasion, and the burden hour per response is 60.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: July 10, 2013.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2013–17069 Filed 7–16–13; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5689–N–06]

Notice of Proposed Information Collection: Comment Request Focus Groups About the Housing Search Process for Lesbian, Gay, Bisexual and Transgender (LGBT) People

AGENCY: Office of Policy Development and Research, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* September 16, 2013.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Reports Liaison Officer, Office of Policy Development and Research, Department of Housing and Urban Development, 451 Seventh Street SW., Room 8230, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Jennifer Stoloff, Department of Housing and Urban Development, Office of Policy Development and Research, 451 7th Street SW., Room 8120, Washington, DC 20410; telephone (202) 402–5723, (this is not a toll free number). Copies of the proposed data collection instruments and other available documents may be obtained from Dr. Stoloff.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended). This notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including if the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This notice also lists the following information:

Title of Proposal: Focus Groups about the Housing Search Process for Lesbian, Gay, Bisexual and Transgender (LGBT) People.

Description of the Need for Information and Proposed Use: The Department is conducting this study as part of a larger effort to study housing discrimination. As part of that research, the Department would like to learn more about the process that people use to search for housing. Specifically, we are interested in the manner in which people identify themselves as lesbian, gay, or transgender when searching for rental housing. The full project is to conduct in-person testing for lesbian and gay people in at least two major metropolitan rental markets and transgender people in at least one market. The study will use paired testing methods to measure disparate treatment.

Members of the Affected Public:

Potential renters who are LGBT persons (four focus groups of 15 people each).	Up to 60.
Potential renters who are heterosexual, for comparison purposes.	Up to 15.

Estimation of the Total Number of Hours Needed To Prepare the Information Collection Including Number of Respondents, Frequency of Response, and Hours of Response:

Instrument	Number of respondents	Number responses per respondent	Average burden/ response (in hours)	Total burden hours
Informed Consent Form (ICF)	75	1	Up to 15 minutes (or .25 hours).	18.75.
Participation in focus group	75	1	120 minutes (2 hours)	150.
Total				168.75.

Status of the Proposed Information Collection: Pending OMB approval.

Authority: Title 13 U.S.C. Section 9(a), and Title 12, U.S.C., Section 1701z–1 *et seq.*

Dated: July 9, 2013.

Jean L. Pao,

General Deputy Assistant Secretary for Policy Development and Research.

[FR Doc. 2013–17071 Filed 7–16–13; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLWY922000–L13200000–EL0000, WYW182164]

Notice of Invitation To Participate; Coal Exploration License Application WYW182164, WY

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Pursuant to the Mineral Leasing Act of 1920, as amended by the Federal Coal Leasing Amendments Act of 1976, and to Bureau of Land Management (BLM) regulations, all interested parties are hereby invited to participate with Bridger Coal Company, on a pro rata cost-sharing basis, in its program for the exploration of coal deposits owned by the United States of America in Sweetwater County, Wyoming.

DATES: This notice of invitation will be published in the *Rock Springs Rocket-Miner* once each week for 2 consecutive weeks beginning the week of July 15, 2013, and in the **Federal Register**. Any party electing to participate in this exploration program must send written notice to both the BLM and Bridger Coal Company, as provided in the **ADDRESSES** section below, no later than 30 days after publication of this invitation in the **Federal Register**.

ADDRESSES: Copies of the exploration plan are available for review during normal business hours in the following offices (serialized under number WYW182164): BLM, Wyoming State Office, 5353 Yellowstone Road, Cheyenne, Wyoming 82003; and BLM, Rock Springs Field Office, 280 Highway 191 North, Rock Springs, Wyoming 82901. The written notice should be sent to the following addresses: Bridger Coal Company, c/o Interwest Mining Co., Attn: Scott M. Child, 1407 W. North Temple, #310, Salt Lake City, Utah 84116 and the BLM Wyoming State Office, Branch of Solid Minerals, Attn: Joyce Gulliver, P.O. Box 1828, Cheyenne, Wyoming 82003.

FOR FURTHER INFORMATION CONTACT: Joyce Gulliver, Land Law Examiner, at 307–775–6208. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: Bridger Coal Company has applied to the BLM for a coal exploration license on public land east of the Jim Bridger power plant and coal mine. The purpose of the exploration program is to obtain structural and quality information of the coal. The BLM regulations at 43 CFR 3410 require the publication of an invitation to participate in the coal exploration in the **Federal Register**. The Federal coal resources included in the exploration license application are located in the following-described lands in Sweetwater County, Wyoming:

Sixth Principal Meridian

T. 21 N., R. 99 W.,
Sec. 30, lots 5 to 8, inclusive, E½W½, and E½; sec. 32.
T. 21 N., R. 100 W.,
Secs. 8, 10, 14, and 24.

The areas described aggregate 3,838.6 acres.

The proposed exploration program is fully described and will be conducted pursuant to an exploration plan to be approved by the BLM.

Authority: 43 CFR 3410.2–1(c)(1).

Nancy L. Beres,

Acting State Director.

[FR Doc. 2013–17148 Filed 7–16–13; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCON00000 L10200000.DF0000 LXSS080C0000]

Notice of Public Meeting, Northwest Colorado Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act (FLPMA) and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, Bureau of Land Management (BLM) Northwest Colorado Resource Advisory Council (RAC) will meet on August 22, 2013, in Grand Junction.

DATES: The Northwest Colorado RAC will meet August 22, 2013, from 8 a.m. to 3 p.m., with public comment periods regarding matters on the agenda at 10 a.m. and 2 p.m. A specific agenda will be available before the meeting at *http://www.blm.gov/co/st/en/BLM_Resources/racs/nwrac.html.*

ADDRESSES: The meeting will be held at the Grand Junction Field Office, 2815 H Road, Grand Junction, Colorado.

FOR FURTHER INFORMATION CONTACT: David Boyd, Public Affairs Specialist, Colorado River Valley Field Office, 2300 River Frontage Road, Silt, CO; (970) 876–9008. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is

available 24 hours a day, seven days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The Northwest Colorado RAC advises the Secretary of the Interior, through the BLM, on a variety of public land issues in northwestern Colorado.

Topics of discussion during Northwest Colorado RAC meetings may include the BLM National Greater Sage-Grouse Planning Strategy, working group reports, recreation, fire management, land use planning, invasive species management, energy and minerals management, travel management, wilderness, wild horse herd management, land exchange proposals, cultural resource management and other issues as appropriate. These meetings are open to the public. The public may present written comments to the RACs. Each formal RAC meeting will also have time, as identified above, allocated for hearing public comments. Depending on the number of persons wishing to comment and time available, the time for individual oral comments may be limited.

A subcommittee under this RAC meets regarding the McInnis Canyon National Conservation Area. The subcommittee report to the Northwest Colorado RAC at each council meeting. Subcommittee meetings are open to the public. More information is available at *http://www.blm.gov/co/st/en/BLM_Resources/racs/nwrac.html.*

Dated: July 10, 2013.

Helen M. Hankins,

BLM Colorado State Director.

[FR Doc. 2013–17140 Filed 7–16–13; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCO956000 L14200000.BJ0000]

Notice of Filing of Plats of Survey; Colorado.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Filing of Plats of Survey; Colorado

SUMMARY: The Bureau of Land Management (BLM) Colorado State Office is publishing this notice to inform the public of the intent to officially file the survey plats listed below and afford a proper period of time to protest this action prior to the plat filing. During this time, the plats will be available for review in the BLM Colorado State Office.

DATES: Unless there are protests of this action, the filing of the plats described in this notice will happen on August 16, 2013.

ADDRESSES: BLM Colorado State Office, Cadastral Survey, 2850 Youngfield Street, Lakewood, CO 80215–7093.

FOR FURTHER INFORMATION CONTACT: Randy Bloom, Chief Cadastral Surveyor for Colorado, (303) 239–3856.

Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, seven days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The plat, in 3 sheets, and field notes of the dependent resurvey, survey, and supplemental plat in Township 34 North, Range 8 West, North of the Ute Line, New Mexico Principal Meridian, Colorado, were accepted June 20, 2013.

The plat and field notes of the dependent resurvey and metes-and-bounds surveys in unsurveyed Township 3 North, Range 79 West, Sixth Principal Meridian, Colorado, were accepted on June 26, 2013.

Randy Bloom,

Chief Cadastral Surveyor for Colorado.

[FR Doc. 2013–17141 Filed 7–16–13; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

[X30–0594–0913–700–00–0–0, 4073000]

Glen Canyon Dam Adaptive Management Work Group Meetings

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of public meeting.

SUMMARY: The Glen Canyon Dam Adaptive Management Work Group (AMWG) makes recommendations to the Secretary of the Interior concerning Glen Canyon Dam operations and other management actions to protect resources downstream of Glen Canyon Dam, consistent with the Grand Canyon Protection Act. The AMWG meets two to three times a year.

DATES: The meeting will be held on Thursday, August 8, 2013, from approximately 9:30 a.m. to approximately 5:30 p.m., and Friday, August 9, 2013, from approximately 8:00 a.m. to approximately 1:30 p.m.

ADDRESSES: The meeting will be held at the Little America Hotel Flagstaff, Ballroom B, 2515 E. Butler Ave, Flagstaff, AZ 86004.

FOR FURTHER INFORMATION CONTACT: Glen Knowles, Bureau of Reclamation, telephone (801) 524–3781; facsimile (801) 524–3858; email at *gknowles@usbr.gov.*

SUPPLEMENTARY INFORMATION: The Glen Canyon Dam Adaptive Management Program (GCDAMP) was implemented as a result of the Record of Decision on the Operation of Glen Canyon Dam Final Environmental Impact Statement to comply with consultation requirements of the Grand Canyon Protection Act (Pub. L. 102–575) of 1992. The GCDAMP includes a Federal advisory committee, the AMWG, a technical work group (TWG), a Grand Canyon Monitoring and Research Center, and independent review panels. The TWG is a subcommittee of the AMWG and provides technical advice and recommendations to the AMWG.

Agenda: The primary purpose of the meeting will be for the AMWG to approve changes to the second year of the GCDAMP Fiscal Year 2013–14 Budget and Work Plan, and to approve the Water Year 2014 Hydrograph operation for Glen Canyon Dam. The AMWG will also receive updates on: (1) The Long-Term Experimental and Management Plan Environmental Impact Statement, (2) results of the 2012 Fall high flow experiment, (3) basin hydrology and the potential for a fall high flow experiment, (4) reports from the Glen Canyon Dam Tribal Liaison. The AMWG will also address other administrative and resource issues pertaining to the GCDAMP.

To view a copy of the agenda and documents related to the above meeting, please visit Reclamation's Web site at *http://www.usbr.gov/uc/rm/amp/amwg/mtgs/13aug08/.* Time will be allowed at the meeting for any individual or organization wishing to make formal oral comments. To allow for full consideration of information by the AMWG members, written notice must be provided to Glen Knowles, Bureau of Reclamation, Upper Colorado Regional Office, 125 South State Street, Room 6107, Salt Lake City, Utah, 84138; telephone 801–524–3781; facsimile 801–524–3858; email at *gknowles@usbr.gov* at least five (5) days prior to the meeting. Any written comments received will be provided to the AMWG members.

Public Disclosure of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: July 11, 2013.

Glen Knowles,

Chief, Adaptive Management Work Group, Upper Colorado Regional Office, Salt Lake City, Utah.

[FR Doc. 2013–17150 Filed 7–16–13; 8:45 am]

BILLING CODE 4310–MN–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–887]

Certain Crawler Cranes and Components Thereof; Institution of Investigation Pursuant to United States Code

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on June 12, 2013, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Manitowoc Cranes, LLC of Manitowoc, Wisconsin. The complaint alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain crawler cranes and components thereof by reason of infringement of U.S. Patent No. 7,546,928 (''the '928 patent'') and U.S. Patent No. 7,967,158 (''the '158 patent''), and that an industry in the United States exists or is in the process of being established as required by subsection (a)(2) of section 337. The complaint further alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain crawler cranes and components thereof by reason of trade secret misappropriation, the threat or effect of which is to destroy or substantially injure an industry in the United States or to prevent the establishment of such an industry.

The complainant requests that the Commission institute an investigation and, after the investigation, issue a limited exclusion order and cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Room 112, Washington, DC 20436, telephone (202) 205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server at *http://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

FOR FURTHER INFORMATION CONTACT: The Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205–2560.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2013).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on July 11, 2013, *ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine:

(a) whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain crawler cranes and components thereof by reason of infringement of one or more of claims 1, 2, and 5 of the '928 patent and claim 1 of the '158 patent, and whether an industry in the United States exists or is in the process of being established as required by subsection (a)(2) of section 337;

(b) whether there is a violation of subsection (a)(1)(A) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain crawler cranes and components thereof by reason of the misappropriation of trade secrets, the threat or effect of which is to destroy or substantially injure an industry in the United States or to prevent the establishment of such an industry;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is: Manitowoc Cranes, LLC, 400 South 44th Street, Manitowoc, WI 54221.

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Sany Heavy Industry Co., Ltd., Sany Industry Town, Economic & Technological Development Zone, Changsha, Hunan Province, China.

Sany America, Inc., 318 Cooper Circle, Peachtree City, GA 30269.

(c) The Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street SW., Suite 401, Washington, DC 20436;

(3) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondents.

By order of the Commission.

Issued: July 11, 2013.

Lisa R. Barton,

Acting Secretary to the Commission.

[FR Doc. 2013–17081 Filed 7–16–13; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

On July 9, 2013, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the Southern District of Florida, Southern Division in the lawsuit entitled *United States of America* v. *Stewart Gammill III.* Civil Action No. 1:12cv134 HSO–RHW.

The United States had filed a complaint against Stewart Gammill (Mr. Gammill) and his spouse Lynn Crosby Gammill (Mrs. Gammill) on April 30, 2012. The complaint alleged claims of the United States against Mr. and Mrs. Gammill under Section 107(a) of the Comprehensive Environmental Response, Compensation and Liability Act, as amended (CERCLA), 42 U.S.C. 9607(a), for recovery of unreimbursed costs incurred by the United States with respect to the Picayune Wood Treating Superfund Site located in Picayune, Pearl River County, Mississippi (the Site). Mr. Gammill is liable as a past owner and operator of Crosby Wood Preserving Company a woodtreating facility on a portion of the Site from 1964 through at least 1970.

The United States has agreed to resolve the claims against Stewart Gammill only on an ability to pay basis. Under the proposed Consent Decree, Mr. Gammill will pay two million dollars ($2,000,000) in no more than two installments with the first installment payment of no less than one million dollars ($1,000,000) due within 60 days of the Decree entry. The subsequent installment payment of the remaining balance is due 120 days after the effective date and shall include an additional sum for interest accrued on the unpaid portion of the principal amount.

Under the proposed Consent Decree, the United States covenants not to sue under CERCLA Sections 106 and 107 subject to statutory reopeners and other reserved rights. The covenants are conditioned upon the satisfactory performance of all obligations under the Consent Decree and upon the veracity and completeness of all financial information provided by Mr. Gammill. The United States is still pursuing its claim against Mrs. Gammill in this action.

The publication of this notice opens a period for public comment on the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States of America* v. *Stewart Gammill III.* Civil Action No. 1:12cv134 HSO–RHW; D.J. Ref. No. 90–11–2–09451/1. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

	Send them to:
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, D.C. 20044–7611.

During the public comment period, the Consent Decree may be examined and downloaded at this Justice Department Web site: *http://www.usdoj.gov/enrd/Consent_Decrees.html.* We will provide a paper copy of the Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to:

Consent Decree Library, U.S. DOJ B ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $4.75 (25 cents per page reproduction costs for 19 pages) payable to the United States Treasury.

Maureen M. Katz,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2013–17080 Filed 7–16–13; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Clean Water Act

On July 11, 2013, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the Eastern District of North Carolina (Southern Division) in the lawsuit entitled *United States* v. *City of Wilmington, N.C., New Hanover County, N.C., and Cape Fear Public Utility Authority, (the ''Defendants'') and the State of North Carolina,* as a Necessary Party required by 33 U.S.C. Section 1319(e), Civil Action No. 7:13-cv-144–BO. The Consent Decree resolves claims against the Defendants under Sections 301 and 402 of the Clean Water Act (the ''Act''), 33 U.S.C. 1311 and 1342, for discharges of pollutants from unpermitted point sources, and for violations of operation and maintenance requirements of the Defendants' National Pollutant Discharge Elimination System (''NPDES'') permits from at least 2003 through the date of filing of the complaint and the lodging of this Consent Decree. The Consent Decree requires the Cape Fear Public Utility Authority (the ''Authority'') to implement injunctive relief within approximately two years from entry of the Consent Decree with the goal of eliminating sanitary sewer overflows (''SSOs''). The Consent Decree sets forth specific actions the Authority must take to achieve compliance with the Act. In addition, the Consent Decree requires the payment of a civil penalty of $300,000.

The publication of this notice opens a period for public comment on the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *City of Wilmington, New Hanover County, and Cape Fear Public Utility Authority,*(the ''Defendants'') and the State of North Carolina, D.O.J. No. 90–5–1–1–09405. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	Send them to:
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General U.S. DOJ—ENRD P.O. Box 7611 Washington, DC 20044–7611

During the public comment period, the Consent Decree may be examined and downloaded at this Justice Department Web site: *http://www.usdoj.gov/enrd/Consent_Decrees.html.* We will provide a paper copy of the Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to:

Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $14.75 (25 cents per page

reproduction cost) payable to the United States Treasury.

Maureen Katz,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2013–17088 Filed 7–16–13; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Clean Water Act, Clean Air Act, and Resource Conservation and Recovery Act

On July 11, 2013, the Department of Justice lodged a proposed consent decree with the United States District Court for the Western District of Arkansas in the lawsuit entitled *United States* v. *James Ballengee, et al,* Civil Action No. 5:11–CV–01781.

The United States filed this lawsuit against James Ballengee, Lisbon Processing, L.L.C., and Lisbon Refinery J.V., L.L.C. under the Clean Water Act, Clean Air Act, and Resource Conservation and Recovery Act. The United States' complaint seeks injunctive relief and civil penalties for violation of the above referenced acts at defendants' petroleum storage and processing facility in Lisbon, Louisiana. The consent decree requires the defendants to perform injunctive relief and pay a $130,000 penalty.

The publication of the notice opens a period for public comment on the consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *James Ballengee, et al,* D.J. Ref. No. 90–5–2–1–09242. All comments must be submitted no later than forty-five (45) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General U.S. DOJ—ENRD P.O. Box 7611 Washington, D.C. 20044–7611.

During the public comment period, the consent decree may be examined and downloaded at this Justice Department Web site: *http://www.usdoj.gov/enrd/Consent_Decrees.html.* We will provide a paper copy of the consent decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $10.00 (25 cents per page reproduction cost) payable to the United States Treasury.

Maureen Katz,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2013–17094 Filed 7–16–13; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OMB Number 1121–0030]

Agency Information Collection Activities; Proposed Collection; Comments Requested Extension of a Currently Approved Collection: Capital Punishment Report of Inmates Under Sentence of Death

ACTION: 60-Day notice.

The Department of Justice (DOJ), Office of Justice Programs, Bureau of Justice Statistics will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collected is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' until September 16, 2013. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments especially the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Tracy L. Snell, Statistician, Bureau of Justice Statistics, Office of Justice Programs, U.S. Department of Justice, 810 Seventh Street NW., Washington, DC 20531 (phone: 202–616–3288).

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of information collection:* Extension of a currently approved collection.

(2) *The title of the Form/Collection:* Capital Punishment Report of Inmates Under Sentence of Death.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Numbers: NPS–8 Report of Inmates Under Sentence of Death; NPS–8A Update Report of Inmates Under Sentence of Death; NPS–8B Status of Death Penalty Statutes—No Statute in Force; and NPS–8C Status of Death Penalty Statutes—Statute in Force. Bureau of Justice Statistics, Office of Justice Programs, United States Department of Justice.

(4) *Affected public who will be asked to respond, as well as a brief abstract:* Primary: State Departments of Corrections and Attorneys General. Others: The Federal Bureau of Prisons. Staff responsible for keeping records on inmates under sentence of death in their jurisdiction and in their custody were asked to provide information for each individual under sentence of death for the following categories: condemned inmates' demographic characteristics, legal status at the time of capital offense, capital offense for which imprisoned, number of death sentences imposed, criminal history information, reason for removal and current status if no longer under sentence of death, method of execution, and cause of death by means other than execution. Personnel in the offices of each Attorney General are asked to provide information regarding the status of death penalty laws and any changes to the laws enacted during the reference year. The Bureau of Justice Statistics uses this information in published reports and in responding to queries from the U.S. Congress,

Executive Office of the President, the U.S. Supreme Court, state officials, international organizations, researchers, students, the media, and others interested in criminal justices statistics.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 88 responses at 30 minutes each for the NPS–8; 3,158 responses at 30 minutes for the NPS–8A; and 52 responses at 15 minutes each for the NPS–8B and NPS–8C. In 2012, the 42 NPS–8/8A respondents and 52 NPS–8B/8C respondents have the option to provide responses using either paper or web-based questionnaires. The burden estimate is based on feedback from respondents in the most recent data collection.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 1,679 annual total burden hours associated with the collection.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Avenue, 145 N Street NE., Room 3W–1407B, Washington, DC 20530.

Dated: July 11, 2013.

Jerri Murray,

Department Clearance Officer, PRA, U.S. Department of Justice.

[FR Doc. 2013–17093 Filed 7–16–13; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Employment and Training Administration

Comment Request for Information Collection for Job Corps Health Questionnaire (OMB Control No. 1205–0033, Extension With Minor Revisions)

AGENCY: Employment and Training Administration (ETA), Labor.

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)].

This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment and Training Administration is soliciting comments regarding gathering Job Corps application data collection forms (OMB Control No. 1205–0033, expires 1/31/2014): ETA Form 653, Job Corps Health Questionnaire.

DATES: Written comments must be submitted to the office listed in the addressee's section below on or before September 16, 2013.

ADDRESSES: Submit written comments to Carol Abnathy, Office of Job Corps, Room N4507, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210. Telephone number: 202–693–3283 (this is not a toll-free number). Individuals with hearing or speech impairments may access the telephone number above via TTY by calling the toll-free Federal Information Relay Service at 877–889–5627 (TTY/TDD). Fax: 202–693–3113; email: *abnathy.carol@dol.gov.* A copy of the proposed Information Collection Request can be obtained by contacting the office listed above.

SUPPLEMENTARY INFORMATION:

I. Background

Job Corps is the nation's largest residential, educational, and career technical training program for young Americans. Job Corps was established in 1964 by the Economic Opportunity Act and currently is authorized by Title I–C of the Workforce Investment Act of 1998. For almost 50 years, Job Corps has helped prepare nearly 3 million at-risk young people between ages 16 and 24 for success in our nation's workforce. With 125 centers in 48 states, Puerto Rico, and the District of Columbia, Job Corps assists students across the nation in attaining academic credentials, including a High School Diploma (HSD) and/or General Educational Development (GED), and career technical training credentials, including industry-recognized certifications, state licensures, and pre-apprenticeship credentials.

Job Corps is administered by the U.S. Department of Labor (DOL) through the Office of Job Corps and six Regional Offices. DOL awards and administers contracts for the recruiting and screening of new students, center operations, and the placement and transitional support of graduates and former enrollees. Large and small corporations and nonprofit organizations manage and operate 97 Job Corps centers under contractual agreements with DOL. These contract Center Operators are selected through a competitive procurement process that evaluates potential operators' technical expertise, proposed costs, past performance, and other factors, in accordance with the Competition in Contracting Act and the Federal Acquisition Regulations. The remaining 28 Job Corps centers, called Civilian Conservation Centers, are operated by the U.S. Department of Agriculture Forest Service, via an interagency agreement. The DOL has a direct role in the operation of Job Corps, and does not serve as a pass-through agency for this program.

II. Review Focus

The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the agency's function, including whether the information has practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the information collection on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

III. Current Actions

Type of Review: Extension with minor revisions.

Title: Job Corps Health Questionnaire.

OMB Number: OMB 1205–0033.

Affected Public: Individuals (Job Corps Applicants).

Form(s): ETA Form 653.

Total Annual Responses: 86,581.

Average Time per Response: 7.43 minutes.

Estimated Total Annual Burden Hours: 10,722 hours.

Total Other Costs: $0.

Comments submitted in response to this comment request will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request. They will also become a matter of public record.

Dated: July 10, 2013.

Gerri Fiala,

Acting Assistant Secretary for Employment and Training, Labor.

[FR Doc. 2013–17113 Filed 7–16–13; 8:45 am]

BILLING CODE 4510–FT–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–82,346]

Whirlpool Corporation, Including On-Site Leased Workers From Aerotek/Tek Systems (Subcontractor of IBM Corporation) and Jones Lang LaSalle for Smith, Arkansas; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (''Act''), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on May 10, 2013, applicable to workers of Whirlpool Corporation, including on-site leased workers from Aerotek/Tek Systems (subcontractor of IBM Corporation), Fort Smith, Arkansas. The Department's notice of determination was published in the **Federal Register** on May 30, 2013 (Volume 78 FR Pages 32464–32467).

At the request of the State Workforce Office, the Department reviewed the certification for workers of the subject firm. The workers were engaged in production of refrigerators and trash compactors as well as decommissioning work for the facility closure.

The state reports that workers leased from Jones Lang LaSalle were employed on-site at the Fort Smith, Arkansas location of Whirlpool Corporation. The Department has determined that these workers were sufficiently under the control of the subject firm to be considered leased workers.

Based on these findings, the Department is amending this certification to include workers leased from Jones Lang LaSalle working on-site at the Fort Smith, Arkansas location of Whirlpool Corporation.

The amended notice applicable to TA–W–82,346 is hereby issued as follows:

All workers of Whirlpool Corporation, including on-site leased workers from Aerotek/Tek Systems (subcontractor of IBM Corporation) and Jones Lang LaSalle, Fort Smith, Arkansas, who became totally or partially separated from employment on or after October 7, 2012 through May 10, 2015, and all workers in the group threatened with total or partial separation from employment on the date of certification through May 10, 2015, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed in Washington, DC this 2nd day of July, 2013.

Michael W. Jaffe,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2013–17118 Filed 7–16–13; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–82,128]

SST Truck Company, LLC, a Navistar, Inc. Company Including On-Site Leased Workers From Employee Solutions, Populus Group, ODW Contract Services, Encore, International Business Machines (IBM), Akzo Nobel, US Security, ASF Logistics, LLC, Briggs Equipment, William Thomas Group, DXP Enterprises, Inc. and Prestige Maintenance, USA, Including Workers Whose Unemployment Insurance (UI) Wages Were Reported Through International Truck and Engine Corporation, Garland, Texas; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (''Act''), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on December 6, 2012, applicable to workers of SST Truck Company, LLC, a Navistar, Inc. company, Garland, Texas, including on-site leased workers from Employee Solutions, Populus Group, and ODW Contract Services. The Department's notice of determination was published in the **Federal Register** on January 4, 2013 (78 FR 768).

At the request of the state workforce office, the Department reviewed the certification for workers of the subject firm. The workers were engaged in activities related to the production of class 4–8 trucks.

The company reports that workers leased from Encore, International Business Machines (IBM), Akzo Nobel, US Security, ASF Logistics, LLC, Briggs Equipment, William Thomas Group, DXP Enterprises, Inc., and Prestige Maintenance USA were employed on-site at the 4030 Forest Lane, Garland, Texas location of SST Truck Company, LLC, a Navistar, Inc. company. The Department has determined that these workers were sufficiently under the control of the subject firm to be considered leased workers.

In addition, new information shows that some workers separated from employment at SST Truck Company, LLC, a Navistar, Inc. had their wages reported through a separate unemployment insurance (UI) tax account under the name International Truck and Engine Corporation.

Based on these findings, the Department is amending this certification to include workers leased from Encore, International Business Machines (IBM), Akzo Nobel, US Security, ASF Logistics, LLC, Briggs Equipment, William Thomas Group, DXP Enterprises, Inc., and Prestige Maintenance USA working on-site at the 4030 Forest Lane, Garland, Texas location of SST Truck Company, LLC, a Navistar, Inc. company, and workers whose unemployment insurance wages were reported through International Truck and Engine Corporation.

The amended notice applicable to TA–W–82,128 is hereby issued as follows:

''All workers of SST Truck Company, LLC, a Navistar, Inc. company, 4030 Forrest Lane, Garland, Texas, and workers of SST Truck Company, LLC, a Navistar, Inc. company, 4030 Forrest Lane, including on-site leased workers from Employee Solutions, Populus Group, ODW Contract Services, Encore, International Business Machines (IBM), Akzo Nobel, US Security, ASF Logistics, LLC, Briggs Equipment, William Thomas Group, DXP Enterprises, Inc., and Prestige Maintenance USA, and including workers whose unemployment insurance (UI) wages are reported through International Truck and Engine Corporation, Garland, Texas, who became totally or partially separated from employment on or after November 2, 2011 through December 6, 2014, and all workers in the group threatened with total or partial separation from employment on the date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.''

Signed in Washington, DC this 2nd day of July, 2013.

Michael W. Jaffe,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2013–17117 Filed 7–16–13; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–82,481]

HarperCollins Publishers Distribution Operations Including On-Site Leased Workers From Action Personnel, CGA Staffing Services, Dynamic Staffing, Kelly Services, Manpower, Canteen, Bulldog Maintenance Company, Inc., Action Lift, and Krayer Detective Agency Including Off-Site Leased Workers From D's Packaging and Rennobs, Scranton, Pennsylvania; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (''Act''), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on April 19, 2013, applicable to workers of HarperCollins Publishers, Distribution Operations, including on-site leased workers from Action Personnel, CGA Staffing Services, Dynamic Staffing, Kelly Services, and Manpower, Scranton, Pennsylvania. The Department's notice of determination was published in the **Federal Register** on May 15, 2013 (Volume 78 FR Pages 28628–28630).

At the request of the State Workforce Office, the Department reviewed the certification for workers of the subject firm. The workers were engaged in production of books.

The state reports that workers leased from Canteen, Bulldog Maintenance Company, Inc., Action Lift, and Krayer Detective Agency were employed on-site at the Scranton, Pennsylvania location of HarperCollins Publishers. The state also reports that workers leased from D's Packaging and Rennobs were employed off-site but were under the operational control of HarperCollins Publishers. The Department has determined that these workers were sufficiently under the control of the subject firm to be considered leased workers, and that their total or partial separations or threat of total or partial separations are attributable to the same increased customer imports that were the basis of the original certification.

Based on these findings, the Department is amending this certification to include workers leased from Canteen, Bulldog Maintenance Company, Inc., Action Lift, Krayer Detective Agency, D's Packaging and Rennobs.

The amended notice applicable to TA–W–82,481 is hereby issued as follows:

''All workers of HarperCollins Publishers, Distribution Operations, including on-site leased workers from Action Personnel, CGA Staffing Services, Dynamic Staffing, Kelly Services, Manpower, Canteen, Bulldog Maintenance Company, Inc., Action Lift, and Krayer Detective Agency, and including off-site leased workers from D's Packaging and Rennobs, Scranton, Pennsylvania, who became totally or partially separated from employment on or after February 19, 2012 through April 19, 2015, and all workers in the group threatened with total or partial separation from employment on the date of certification through April 19, 2015, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.''

Signed in Washington, DC this 2nd day of July, 2013.

Michael W. Jaffe,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2013–17116 Filed 7–16–13; 8:45 am]

BILLING CODE 4510–FN–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: (13–082)]

NASA Advisory Council; Human Exploration Operations Committee; Research Subcommittee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–462, as amended, the National Aeronautics and Space Administration (NASA) announces a meeting of the Research Subcommittee of the Human Exploration and Operations Committee (HEOC) of the NASA Advisory Council (NAC). This Subcommittee reports to the HEOC. The meeting will be held for the purpose of organizing the activities of the Subcommittee and fact-finding with respect to the research activities within the Human Exploration and Operations Mission Directorate.

DATES: Wednesday, July 31, 2013, 1:00 p.m. to 4:00 p.m., Local Time.

ADDRESSES: NASA Headquarters, Room 7S40A, 300 E Street SW., Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Dr. Bradley Carpenter, Human Exploration and Operations Mission Directorate, NASA Headquarters, Washington, DC 20546, (202) 358–0826, or *bcarpenter@nasa.gov.*

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the capacity of the room. This meeting is also available telephonically and by WebEx. Any interested person may call the USA toll free conference call number (877) 923–0445 or toll number (210) 453–5454, pass code 1310790, to participate in this meeting by telephone. The WebEx link is *https://nasa.webex.com/,* the meeting number is 994 358 451, and the password is July3!2013.

The agenda for the meeting includes the following topics:

—Advanced Exploration Systems Overview

—Human Research Program Activities

—Discussion of Future Subcommittee Activities

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Attendees will be requested to sign a register and to comply with NASA security requirements, including the presentation of a valid picture ID to Security before access to NASA Headquarters. Foreign nationals attending this meeting will be required to provide a copy of their passport and visa in addition to providing the following information no less than 10 working days prior to the meeting: Full name; gender; date/place of birth; citizenship; visa information (number, type, expiration date); passport information (number, country, expiration date); employer/affiliation information (name of institution, address, country, telephone); title/position of attendee; and home address to Dr. Bradley Carpenter via email at *bcarpenter@nasa.gov* or by fax at (202) 358–2886. U.S. citizens and Permanent Residents (green card holders) are requested to submit their name and affiliation 3 working days prior to the meeting to Dr. Carpenter.

Patricia D. Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2013–17109 Filed 7–16–13; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA–2013–034]

Nixon Presidential Historical Materials: Opening of Materials

AGENCY: National Archives and Records Administration.

ACTION: Notice of Opening of Additional Nixon Materials.

SUMMARY: This notice announces the opening of additional Nixon Presidential Historical Materials by the Richard Nixon Presidential Library and Museum, a division of the National Archives and Records Administration. Notice is hereby given that, in accordance with § 104 of Title I of the Presidential Recordings and Materials Preservation Act (PRMPA, 44 U.S.C. § 2111 note) and § 1275.42(b) of the PRMPA Regulations implementing the Act (36 CFR Part 1275), the Agency has identified, inventoried, and prepared for public access approximately 340 hours of Nixon White House tape recordings and additional textual materials with certain information redacted as required by law, including the PRMPA.

DATES: The Richard Nixon Presidential Library and Museum intends to make the materials described in this notice available to the public on August 21, 2013, at the Richard Nixon Library and Museum in Yorba Linda, CA, beginning at 9:30 a.m. PDT/12:30 p.m. EDT. In accordance with 36 CFR 1275.44, any person who believes it necessary to file a claim of legal right or privilege concerning access to these materials must notify the Archivist of the United States in writing of the claimed right, privilege, or defense within 30 days of the publication of this notice in the **Federal Register.**

ADDRESSES: The Richard Nixon Presidential Library and Museum is located at 18001 Yorba Linda Blvd., Yorba Linda, CA. Researchers must have a NARA researcher card, which they may obtain when they arrive at the Library. All of the tapes and selections from the additional materials will be available at *www.nixonlibrary.gov.* Petitions asserting a legal or constitutional right or privilege that would prevent or limit public access to the materials must be sent to the Archivist of the United States, National Archives at College Park, 8601 Adelphi Rd., College Park, Maryland 20740–6001.

FOR FURTHER INFORMATION CONTACT: Gregory Cumming, Richard Nixon Presidential Library and Museum, 714–983–9131.

SUPPLEMENTARY INFORMATION: The following materials will be made available in accordance with this notice:

1. NARA's Nixon Library is proposing to open approximately 2905 conversations which were recorded between April 9 and July 12, 1973. These conversations total approximately 340 hours of listening time (338 h 47 m of tape opened and 342 h 13 m of tape reviewed). This is the fifteenth opening of Nixon White House tapes since 1980. There are no transcripts for these tapes. Tape subject logs, prepared by the Nixon Library, are offered for public access as a finding aid to the tape segments and a guide for the listener. There is a separate tape log entry for each conversation. Each tape log entry includes the names of participants; date and inclusive times of each conversation; location of the conversation; and an outline of the content of the conversation. Listening stations will be available on a first come, first served basis at the Library in Yorba Linda. The newly released tapes will also be available on August 21, 2013 on the Web at *http://www.nixonlibrary.gov* at 9:30 a.m. PDT/12:30 p.m. EDT. The Nixon Library reserves the right to limit listening time in response to heavy demand.

2. Previously restricted textual materials. Volume: 31 cubic feet. A number of textual materials previously withheld from public access have been reviewed for release and/or declassified under the systematic declassification review provisions and under the mandatory review provisions of Executive Order 13526, the Freedom of Information Act (5 U.S.C. § 552), or in accordance with 36 CFR 1275.56 (Public Access regulations). The materials are from integral file segments for the National Security Council (NSC Files and NSC Institutional Files); along with the White House Special Files; White House Central Files; The President's Foreign Intelligence Advisory Board file; and RG87 and RG130.

3. White House Central Files, Staff Member and Office Files. Volume: 72.5 cubic feet. The White House Central Files Unit was a permanent organization within the White House complex that maintained a central filing and retrieval system for the records of the President and his staff. The Staff Member and Office Files consist of materials that were transferred to the Central Files but were not incorporated into the Subject Files. The following file groups will be made available: Franklin, Barbara and Price, John.

4. White House Central Files, Oversize Attachment Files. Volume: 0.25 cubic foot. The White House Central Files Unit was a permanent organization within the White House complex that maintained a central filing and retrieval system for the records of the President and his staff. The Oversize Attachment Files were a means of filing and organizing materials that were too bulky or odd-sized to be placed in a file folder. Listed is the oversize attachment from the White House Central Files, Oversize Attachment Files in the opening: OA (5720)

5. White House Central Files, Name Files: Volume: 4 cubic feet. The Name Files were used for routine materials filed alphabetically by the name of the correspondent; copies of documents in the Name Files were usually filed by subject in the Subject Files. The following Name Files folders will be made available:

Abbott, H–J
Abbott, John Hancock
Abbott, K–R
Abbott, Richard
Abbott, Robert
Abbott, Robert B.
Abbott, Roberta
Abbott, S–Z
Abbotta
ABDE
ABDI
ABDG
ABDULL
ABE
Abel, A–E
Alexander, H
Alexander, Henry
Bank, A–H
Berlin, Richard E.
Butts, U–Z
Champion, D–G
Chase, M
Chelt
Clausen, L–Z
Cook, Donald
Finch, Robert H
First National City Bank of NY
Gates, T
Hampton, Lionel
Hauge
Heads
Irving, T
Lundberg
Manufacture
McCall, H
McCloy, John J.
McCrea, Q–Z
McNeill, F–K
McNeill, L–R
Meyer, John
Morgan, Gr
Moore, George S–Z
Moore, George
Muccia
Murphy, George
Pawley
Petersen, W
Peterson, Ru
Peterson, Ra
Regan, A–E
Renb
Rockefeller, David
Shriver, Sargent
Shultz, George P.
SMARTA
Smathers George A. (Sen)

Wrin

Dated: June 28, 2013.

David S. Ferriero,

Archivist of the United States.

[FR Doc. 2013–17136 Filed 7–16–13; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

SES Performance Review Board

AGENCY: National Endowment for the Arts.

ACTION: Notice.

SUMMARY: Notice is hereby given of the names of members of the Performance Review Board for the National Endowment for the Arts. This notice supersedes all previous notices of the PRB membership of the Agency.

DATES: Upon publication.

FOR FURTHER INFORMATION CONTACT: Craig McCord Sr., Director of Human Resources, National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Room 223, Washington, DC 20506, (202) 682–5473.

SUPPLEMENTARY INFORMATION: See 4314 (c)(1) through (5) of Title 5, U.S.C., requires each agency to establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more SES Performance Review Boards. The Board shall review and evaluate the initial appraisal of a senior executive's performance by the supervisor, along with any response by the senior executive, and make recommendations to the appointing authority relative to the performance of the senior executive.

The following persons have been selected to serve on the Performance Review Board of the National Endowment for the Arts (NEA):

Winona Varnon—Deputy Chairman for Management and Budget

Sunil Iyengar—Director, Research & Analysis

William O'Brien—Senior Advisor for Program Innovation

Kathy Plowitz-Worden,

Panel Coordinator, National Endowment for the Arts.

[FR Doc. 2013–17110 Filed 7–16–13; 8:45 am]

BILLING CODE P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69974; File No. SR–NYSEMKT–2013–55]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Its Price List To Change the Monthly Fees for the Use of Certain Ports

July 11, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that, on June 28, 2013, NYSE MKT LLC (the ''Exchange'' or ''NYSE MKT'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Price List to change the monthly fees for the use of certain ports. The Exchange proposes to implement the fee changes on July 1, 2013. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Price List to change the monthly fees for the use of certain ports.[3] The Exchange proposes to implement the fee changes on July 1, 2013.[4]

The Exchange currently makes ports available that provide connectivity to the Exchange's trading systems (i.e., ports for entry of orders and/or quotes (''order/quote entry ports'')) and charges $200 per port per month.[5] The Exchange proposes that the $200 fee per port per month would apply to users with five or fewer order/quote entry ports and that the fee for users with more than five order/quote entry ports would be $500 per port per month, including for the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Exchange has a Common Customer Gateway (''CCG'') that accesses the equity trading systems that it shares with its affiliates, New York Stock Exchange LLC (''NYSE'') and NYSE Arca, Inc. (''NYSE Arca''), and all ports connect to the CCG. *See, e.g.,* Securities Exchange Act Release No. 64543 (May 25, 2011), 76 FR 31667 (June 1, 2011) (SR–NYSEAmex–2011–20). All NYSE MKT member organizations are also NYSE member organizations and, accordingly, a member organization utilizes its ports for activity on both NYSE and/or NYSE MKT and is charged port fees based on the total number of ports connected to the CCG, whether the ports are used to quote and trade on NYSE, NYSE MKT, and/or both, because those trading systems are integrated. The NYSE Arca trading platform is not integrated in the same manner. Therefore, it does not share its ports with NYSE or NYSE MKT.

[4] The Exchange notes that billing for ports is based on the number of ports on the third business day prior to the end of the month. In addition, the level of activity with respect to a particular port does not affect the assessment of monthly fees, such that, except for ports that are not charged, even if a particular port is not used, a port fee still applies.

[5] The Price List provides that (i) users of the Exchange's Risk Management Gateway service (''RMG'') are not charged for order/quote entry ports if such ports are designated as being used for RMG purposes, and (ii) Designated Market Makers (''DMMs'') are not charged for order/quote entry ports that connect to the Exchange via the DMM Gateway. *See* Securities Exchange Act Release No. 68261 (November 19, 2012), 77 FR 70522 (November 26, 2012) (SR–NYSEMKT–2012–64). Two methods are available to DMMs to connect to the Exchange: DMM Gateway and CCG. The two methods are quite distinct, however. Only DMMs may utilize the DMM Gateway, and they may only use DMM Gateway when acting in their capacity as a DMM. DMMs are required to use the DMM Gateway for certain DMM-specific functions that relate to the DMM's role on the Exchange and the obligations attendant therewith, which are not applicable to other market participants on the Exchange. By contrast, non-DMMs as well as DMMs may use the CCG, use of the CCG by a DMM is optional, and a DMM that connects to the Exchange via CCG can use the relevant order/quote entry port for orders and quotes both in its capacity as a DMM and for orders and quotes in other securities. Accordingly, because DMMs are required to utilize DMM Gateway, but not CCG, to be able to fulfill their functions as DMMs, DMMs are not charged for order/quote entry ports that connect to the Exchange via the DMM Gateway, but DMMs, like other market participants, are charged for order/entry ports that connect to the Exchange via the CCG. DMMs can elect to use the DMM Gateway, the CCG, or both for their connectivity to the Exchange. However, the DMM Gateway must be used for certain DMM-specific functions that relate to the DMM's role on the Exchange and the obligations attendant therewith.

first five ports.[6] The Exchange is proposing this change in order to permit the Exchange to offset, in part, its infrastructure costs associated with making such ports available. The proposed change would also encourage users to become more efficient with, and reduce the number of, their order/quote ports, thereby resulting in a corresponding increase in the efficiency that the Exchange would be able to realize with respect to managing its own infrastructure. In this regard, as users decrease the number of order/quote ports that they utilize, the Exchange would similarly be able to decrease the amount of its hardware that it is required to support to interface [sic] with such ports.

The Exchange notes that the proposed change is not otherwise intended to address any other issues, and the Exchange is not aware of any problems that member organizations would have in complying with the proposed change.

The Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[8] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange believes that the proposed change to the monthly rates is reasonable because the fees charged for order/quote entry ports are expected to permit the Exchange to offset, in part, its infrastructure costs associated with making such ports available, including costs based on gateway software and hardware enhancements and resources dedicated to gateway development, quality assurance, and support. In this regard, the Exchange believes that the proposed fees are competitive with those charged by other exchanges.[9] The proposed change is also reasonable because the proposed per port rates would encourage users to become more efficient with, and reduce the number of, ports used for order/quote entry, thereby resulting in a corresponding increase in the efficiency that the Exchange would be able to realize with respect to managing its own infrastructure.

The Exchange also believes that these changes to the fees are equitable and not unfairly discriminatory because they would apply to all users of order/quote entry ports on the Exchange, subject to the exceptions noted above.[10] The Exchange also believes that it is equitable and not unfairly discriminatory to charge a higher fee to users with more than five order/quote entry ports, as compared to users with five or fewer order/quote entry ports, because the Exchange believes that users with more than five order/quote entry ports would be incentivized to become more efficient with their utilization of ports.[11]

The Exchange has considered multiple factors in proposing the tiered approach to order/quote entry port pricing, including that the fee increase would occur once a user has more than five order/quote entry ports. The Exchange believes that this approach to pricing is equitable and not unfairly discriminatory, including for the following reasons. Specifically, the Exchange believes that there is a correlation between the number of order/quote entry ports utilized by users and the level of trading volume sent to the Exchange by such users, such that a user with significant trading activity sent to the Exchange likely utilizes a greater number of order/quote entry ports than a user with minimal trading activity sent to the Exchange. However, despite this correlation, and regardless of the amount of activity a user sends to the Exchange via its order/quote entry ports, or the size of the firm, every user that connects its systems to the Exchange's trading systems requires at least one port for order/quote entry. Many users also maintain a certain number of additional order/quote entry ports for redundancy and/or hardware configuration purposes. These users have a limited opportunity to become more efficient with their use of ports. Accordingly, the Exchange believes that five is a reasonable number of ports that would permit a user that sends a lesser amount of trading activity to the Exchange to manage its ports in such a way that it could sufficiently address these redundancy and configuration concerns without crossing the threshold for which higher fees apply.

In this regard, the Exchange anticipates that, as a result of the proposed increase of the order/quote entry port fee under the tiered structure, users would become more efficient with their utilization of order/quote entry ports and would decrease the number of order/quote entry ports so as to qualify for the $200 rate per port. Such a decrease in order/quote entry port use would result in a corresponding decrease in the infrastructure that the Exchange is required to support for connectivity to its trading systems and a decrease in the costs related thereto.

For the reasons above, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[12] the Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Instead, the Exchange believes that the proposed change will permit the Exchange to set fees for ports that are competitive with those charged by other exchanges.[13] Moreover, the Exchange believes that charging different rates for users with five or fewer order/quote entry ports as compared to users with more than five ports would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act because the Exchange believes that a reduction in the number of order/quote entry ports would result in a decrease in the infrastructure that the Exchange is required to support for connectivity to its trading systems. This would also provide incentive for users to become more efficient with their use of ports and could therefore result in such users becoming more competitive due to decreased costs. In this regard, the Exchange notes that at least one of the Exchange's competitors charges different rates depending on the number of ports utilized.[14]

[6] For example, a user with five ports would be charged $200 per port per month for a total of $1,000 per month for all five ports. A user with six ports would be charged $500 per port per month, including for the first five ports, for a total of $3,000 per month for all six ports.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(4) and (5).

[9] For example, the charge on the NASDAQ Stock Market LLC (''NASDAQ'') for a FIX Trading Port is $500 per port per month. *See* Nasdaq Rule 7015. A separate charge for Pre-Trade Risk Management ports also is applicable, which ranges from $400 to $600 and is capped at $25,000 per firm per month. *See* Nasdaq Rule 7016. EDGA Exchange, Inc. (''EDGA'') and EDGX Exchange, Inc. (''EDGX'') also each charge $500 per port per month.

[10] *See supra* note 4.

[11] The Exchange also notes that at least one of its competitors charges different rates depending on the number of ports utilized. Specifically, EDGA and EDGX each provide the first five ports for free.

[12] 15 U.S.C. 78f(b)(8).

[13] *See supra* note 8.

[14] *See supra* note 10.

Finally, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive. In such an environment, the Exchange must continually review, and consider adjusting, its fees and credits to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed rule change reflects this competitive environment.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A) [15] of the Act and subparagraph (f)(2) of Rule 19b–4 [16] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [17] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml);* or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEMKT–2013–55 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEMKT–2013–55. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEMKT–2013–55 and should be submitted on or before August 7, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2013–17097 Filed 7–16–13; 8:45 am]

BILLING CODE 8011–01–P

[15] 15 U.S.C. 78s(b)(3)(A).

[16] 17 CFR 240.19b–4(f)(2).

[17] 15 U.S.C. 78s(b)(2)(B).

[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69972; File No. SR–FICC–2013–05]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Order Approving Proposed Rule Change To Include trueEX LLC as a Designated Locked-In Trade Source Pursuant to the Rulebook of the Government Securities Division

July 11, 2013.

On May 15, 2013, the Fixed Income Clearing Corporation (''FICC'') filed with the Securities and Exchange Commission (''Commission'') proposed rule change SR–FICC–2013–05 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder.[2] The proposed rule change was published for comment in the **Federal Register** on June 4, 2013.[3] The Commission received one comment on the proposed rule change that did not address the content of the proposal.[4] For the reasons discussed below, the Commission is approving the proposed rule change.

I. Description of the Proposed Rule Change

FICC's proposed rule change would amend the rulebook of the Government Securities Division (''GSD'') to include trueEX LLC (''trueEX'') as one of the GSD's designated locked-in trade sources. The GSD's rules currently provide for the submission of locked-in trades [5] by certain locked-in trade sources [6] on behalf of GSD members. Currently, the GSD's designated locked-in trade sources are the following entities: (i) Federal Reserve Banks (as fiscal agents of the United States); (ii) the Federal Home Loan Mortgage

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 69653 (May 29, 2013), 78 FR 33456 (June 4, 2013) (SR–FICC–2013–05).

[4] Email submission by Laura Skinner (June 10, 2013), *available at http://www.sec.gov/comments/sr-ficc-2013-05/ficc201305-1.htm.*

[5] The GSD's rulebook defines the term ''Locked-In Trade'' as ''a trade, involving Eligible Securities, that is deemed a Compared Trade once the data on such trade is received from a single, designated source and meets the requirements for submission of data on a Locked-In Trade pursuant to [the GSD's] Rules, without the necessity of matching the data regarding the trade with data provided by each Member that is or is acting on behalf of an original counterparty to the trade.'' GSD Rulebook, Rule 1, p.33.

[6] The GSD Rulebook defines the term ''Locked-in Trade Source'' as ''a source of data on Locked-In Trades that the Corporation has so designated, subject to such terms and conditions as to which the Locked-In Trade Source and the [GSD] may agree.'' GSD Rulebook, Rule 1, p.33.

Corporation (''Freddie Mac''); (iii) GCF-Authorized Inter-Dealer Brokers;[7] (iv) the U.S. Department of the Treasury; and (v) New York Portfolio Clearing, LLC.

trueEX is an electronic exchange for interest rate swaps, and has been designated a contract market by the Commodity Futures Trading Commission.[8] The swap transactions executed by trueEX are cleared by a clearinghouse other than the GSD, but in the event one of these swap transactions results in the physical delivery of the underlying instrument,[9] the GSD will clear and settle the exchange of that instrument in certain instances.[10] Accordingly, for the delivery-versus-payment (''DVP'')[11] leg of these physical delivery transactions, trueEX will offer members who are also members of GSD the ability to have such transactions submitted to the GSD by trueEX as netting-eligible transactions (*e.g.,* as Treasury DVP transactions). In its capacity as a designated locked-in trade source, trueEX will transmit transactions to the GSD throughout the day by submitting single tickets in a batch format. Once trueEX transmits a locked-in trade to the GSD, the GSD will process the trade normally, along with the respective GSD member's other DVP trades. Because the ticket submitted by trueEX lists trueEX as the submitter on behalf of two GSD counterparties, the single-ticket format ensures that trueEX will not have a resulting settlement obligation, even though it is a party to the trade.[12] If trueEX is approved as a locked-in trade source by the GSD during the onboarding phase,[13] it will be the first designated contract market[14] to act as a locked-in trade source for the GSD.

As is the case with other locked-in trade submissions accepted by the GSD, GSD members will be required to execute appropriate documentation evidencing to the GSD their authorization of trueEX to submit trades on their behalf. The GSD will notify members of the availability of this documentation via Important Notice.

II. Discussion

Section 19(b)(2)(C) of the Act[15] directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such organization. Section 17A(b)(3)(F) of the Act[16] requires, among other things, that the rules of a clearing agency be designed to achieve several goals, including (i) Promoting the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions, (ii) assuring the safeguarding of securities and funds that are in the custody or control of the clearing agency or for which it is responsible, and (iii) protecting investors and the public interest.

The Commission concludes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder. The Commission believes that adding trueEX as a source of locked-in trades for the GSD will promote the prompt and accurate clearance and settlement of securities transactions by expediting the GSD's receipt of accurate trade data. In the absence of a locked-in trade source, trades must be compared bilaterally, which requires that both parties to the transaction independently transmit trade information to the GSD.[17] This confirmation process can occasion delays when the parties fail to submit trade information in a timely fashion, or when they submit inaccurate or incomplete information that the GSD must then verify. The Commission believes that allowing the GSD to accept trade information from trueEX on a locked-in basis will help the GSD process transactions more rapidly, and will enhance the accuracy of the trade information the GSD uses in performing its clearing services.

In addition, the Commission believes that allowing trueEX to serve as a locked-in trade source is generally consistent with the safeguarding of the securities and funds in the GSD's control, or for which it is responsible.[18] Trades originating on the trueEX exchange will remain subject to all of the GSD's normal risk management procedures, which include marking member portfolios to the market on an intraday basis and charging variation margins accordingly.[19] These risk management procedures should help ensure the safety of the securities and funds handled by the GSD in connection with transactions effected on the trueEX exchange.

Finally, the Commission believes that trueEX satisfies the general criteria for serving as a locked-in trade source to the GSD, provided the GSD determines that trueEX meets all of the GSD's applicable onboarding protocols. The Commission has previously determined that the GSD may utilize locked-in comparison for trades executed on a ''pure electronic trading system that is [computer] terminal-driven'' and which permits ''no discretion over trade details . . . once the trade is submitted.''[20] trueEX meets all of these requirements. The trueEX exchange is exclusively an electronic trading platform, and counterparties executing trades there may not unilaterally modify or cancel trades once trueEX has matched them.[21]

[7] The GSD Rulebook defines the term ''GCF-Authorized Inter-Dealer Broker'' as ''an Inter-Dealer Broker Netting Member that the [GSD] has designated as eligible to submit to the [GSD] data on GCF Repo Transactions on a Locked-In Basis.'' GSD Rulebook, Rule 1, p.27.

[8] *See In the Matter of the Request of trueEX LLC for Designation as a Contract Market* (September 25, 2012) (approving trueEX's application for designation as a contract market), *available at http://www.cftc.gov/ucm/groups/public/@otherif/documents/ifdocs/trueexapplicationorder.pdf.*

[9] Generally, fewer than 3% of interest rate swaps result in a physical delivery when they are unwound.

[10] The GSD would clear only those transactions involving the physical delivery of U.S. Treasury bills, notes, bonds, Treasury inflation-protected securities (TIPS) and separate trading of registered interest and principal securities (STRIPS), as well as federal agency notes, bonds and zero-coupon securities that are book-entry, Fedwire eligible and non-mortgage backed.

[11] Delivery-versus-payment is a settlement procedure in which the buyer's cash payment for the securities it has purchased is due at the time the securities are delivered.

[12] In its capacity as a locked-in trade source, trueEX will initially not be subject to any fees pursuant to the existing GSD Rules. The GSD may, however, consider imposing a fee on certain locked-in trade sources in the future based on volumes and processing costs.

[13] During the onboarding phase, trueEX will be subject to the GSD's existing due diligence process, including testing trueEX's trade input and receipt of output capabilities prior to the go-live date.

[14] Designated contract markets are exchanges that may list for trading both futures and option contracts based on all types of commodities, and that may allow access to their facilities by all types of traders, including retail customers. *See http://www.cftc.gov/IndustryOversight/TradingOrganizations/DCMs/index.htm.*

[15] 15 U.S.C. 78s(b)(2)(C).

[16] 15 U.S.C. 78q–1(b)(3)(F).

[17] The bilateral comparison process requires that both counterparties to the trade submit trade details to the GSD, and that the details submitted by the parties either match or fall within predefined parameters. *See* GSD Rulebook, Rule 6A (providing that, for the GSD to process a trade for bilateral comparison, it ''must receive data from the long and short sides of the trade'' and that, with certain limited exceptions, ''there must be an exact match of all Required Match Data submitted on the trade . . . .'').

[18] *See* 15 U.S.C. 78q–1(b)(3)(F) (requiring that the rules of a clearing agency be designed to ''assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible.'').

[19] *See* GSD Rulebook, Rule 4, Section 2a, p.89.

[20] Securities Exchange Act Release No. 44946 (October 17, 2001), 66 FR 53816, 53817 (October 24, 2001) (SR–GSCC–2001–01) (internal quotation marks omitted).

[21] As with bilateral trades, counterparties to a locked-in trade may submit a ''DK Notice'' for any trades they believe to be ''invalid or incorrect.'' *See* GSD Rulebook Rule 6C, Section 6. But, unlike with bilateral trades, the GSD considers a DK Notice in the context of a locked-in trade to be ''a request for

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act, particularly those set forth in Section 17A,[22] and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[23] that the proposed rule change (File No. SR–FICC–2013–05) be, and hereby is, *approved.*[24]

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[25]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2013–17096 Filed 7–16–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69975; File No. SR–NYSE–2013–45]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending its Price List To Change the Monthly Fees For the Use of Certain Ports

July 11, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that, on June 28, 2013, New York Stock Exchange LLC (the ''Exchange'' or ''NYSE'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Price List to change the monthly fees for the use of certain ports. The Exchange proposes to implement the fee changes on July 1, 2013. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Price List to change the monthly fees for the use of certain ports.[3] The Exchange proposes to implement the fee changes on July 1, 2013.[4]

The Exchange currently makes ports available that provide connectivity to the Exchange's trading systems (i.e., ports for entry of orders and/or quotes (''order/quote entry ports'')) and charges $200 per port per month.[5] The Exchange proposes that the $200 fee per port per month would apply to users with five or fewer order/quote entry ports and that the fee for users with more than five order/quote entry ports would be $500 per port per month, including for the first five ports.[6] The Exchange is proposing this change in order to permit the Exchange to offset, in part, its infrastructure costs associated with making such ports available. The proposed change would also encourage users to become more efficient with, and reduce the number of, their order/quote ports, thereby resulting in a corresponding increase in the efficiency that the Exchange would be able to realize with respect to managing its own infrastructure. In this regard, as users decrease the number of order/quote ports that they utilize, the Exchange would similarly be able to decrease the amount of its hardware that it is required to support to interface [sic] with such ports.

The Exchange notes that the proposed change is not otherwise intended to address any other issues, and the Exchange is not aware of any problems that member organizations would have in complying with the proposed change.

The Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition.

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cancellation'' to the locked-in trade source. *See id.; see also* GSD Rulebook, Rule 1, p.19. Thus, only trueEX may modify or cancel a trade in response to a DK Notice. *See* GSD Rulebook Rule 6C, Section 10.

[22] 15 U.S.C. 78q–1.

[23] 15 U.S.C. 78s(b)(2).

[24] In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[25] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Exchange has a Common Customer Gateway (''CCG'') that accesses the equity trading systems that it shares with its affiliates, NYSE MKT LLC (''NYSE MKT'') and NYSE Arca, Inc. (''NYSE Arca''), and all ports connect to the CCG. *See, e.g.,* Securities Exchange Act Release No. 64542 (May 25, 2011), 76 FR 31659 (June 1, 2011) (SR–NYSE–2011–13). All NYSE member organizations are also NYSE MKT member organizations and, accordingly, a member organization utilizes its ports for activity on both NYSE and/or NYSE MKT and is charged port fees based on the total number of ports connected to the CCG, whether the ports are used to quote and trade on NYSE, NYSE MKT, and/or both, because those trading systems are integrated. The NYSE Arca trading platform is not integrated in the same manner. Therefore, it does not share its ports with NYSE or NYSE MKT.

[4] The Exchange notes that billing for ports is based on the number of ports on the third business day prior to the end of the month. In addition, the level of activity with respect to a particular port does not affect the assessment of monthly fees, such that, except for ports that are not charged, even if a particular port is not used, a port fee still applies.

[5] The Price List provides that (i) users of the Exchange's Risk Management Gateway service (''RMG'') are not charged for order/quote entry ports if such ports are designated as being used for RMG purposes, and (ii) Designated Market Makers (''DMMs'') are not charged for order/quote entry ports that connect to the Exchange via the DMM Gateway. *See* Securities Exchange Act Release No. 68229 (November 14, 2012), 77 FR 69688 (November 20, 2012) (SR–NYSE–2012–60). Two methods are available to DMMs to connect to the Exchange: DMM Gateway and CCG. The two methods are quite distinct, however. Only DMMs may utilize the DMM Gateway, and they may only use DMM Gateway when acting in their capacity as a DMM. DMMs are required to use the DMM Gateway for certain DMM-specific functions that relate to the DMM's role on the Exchange and the obligations attendant therewith, which are not applicable to other market participants on the Exchange. By contrast, non-DMMs as well as DMMs may use the CCG, use of the CCG by a DMM is optional, and a DMM that connects to the Exchange via CCG can use the relevant order/quote entry port for orders and quotes both in its capacity as a DMM and for orders and quotes in other securities. Accordingly, because DMMs are required to utilize DMM Gateway, but not CCG, to be able to fulfill their functions as DMMs, DMMs are not charged for order/quote entry ports that connect to the Exchange via the DMM Gateway, but DMMs, like other market participants, are charged for order/entry ports that connect to the Exchange via the CCG. DMMs can elect to use the DMM Gateway, the CCG, or both for their connectivity to the Exchange. However, the DMM Gateway must be used for certain DMM-specific functions that relate to the DMM's role on the Exchange and the obligations attendant therewith.

[6] For example, a user with five ports would be charged $200 per port per month for a total of $1,000 per month for all five ports. A user with six ports would be charged $500 per port per month, including for the first five ports, for a total of $3,000 per month for all six ports.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[8] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange believes that the proposed change to the monthly rates is reasonable because the fees charged for order/quote entry ports are expected to permit the Exchange to offset, in part, its infrastructure costs associated with making such ports available, including costs based on gateway software and hardware enhancements and resources dedicated to gateway development, quality assurance, and support. In this regard, the Exchange believes that the proposed fees are competitive with those charged by other exchanges.[9] The proposed change is also reasonable because the proposed per port rates would encourage users to become more efficient with, and reduce the number of, ports used for order/quote entry, thereby resulting in a corresponding increase in the efficiency that the Exchange would be able to realize with respect to managing its own infrastructure.

The Exchange also believes that these changes to the fees are equitable and not unfairly discriminatory because they would apply to all users of order/quote entry ports on the Exchange, subject to the exceptions noted above.[10] The Exchange also believes that it is equitable and not unfairly discriminatory to charge a higher fee to users with more than five order/quote entry ports, as compared to users with five or fewer order/quote entry ports, because the Exchange believes that users with more than five order/quote entry ports would be incentivized to become more efficient with their utilization of ports.[11]

The Exchange has considered multiple factors in proposing the tiered approach to order/quote entry port pricing, including that the fee increase would occur once a user has more than five order/quote entry ports. The Exchange believes that this approach to pricing is equitable and not unfairly discriminatory, including for the following reasons. Specifically, the Exchange believes that there is a correlation between the number of order/quote entry ports utilized by users and the level of trading volume sent to the Exchange by such users, such that a user with significant trading activity sent to the Exchange likely utilizes a greater number of order/quote entry ports than a user with minimal trading activity sent to the Exchange. However, despite this correlation, and regardless of the amount of activity a user sends to the Exchange via its order/quote entry ports, or the size of the firm, every user that connects its systems to the Exchange's trading systems requires at least one port for order/quote entry. Many users also maintain a certain number of additional order/quote entry ports for redundancy and/or hardware configuration purposes. These users have a limited opportunity to become more efficient with their use of ports. Accordingly, the Exchange believes that five is a reasonable number of ports that would permit a user that sends a lesser amount of trading activity to the Exchange to manage its ports in such a way that it could sufficiently address these redundancy and configuration concerns without crossing the threshold for which higher fees apply.

In this regard, the Exchange anticipates that, as a result of the proposed increase of the order/quote entry port fee under the tiered structure, users would become more efficient with their utilization of order/quote entry ports and would decrease the number of order/quote entry ports so as to qualify for the $200 rate per port. Such a decrease in order/quote entry port use would result in a corresponding decrease in the infrastructure that the Exchange is required to support for connectivity to its trading systems and a decrease in the costs related thereto.

For the reasons above, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[12] the Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Instead, the Exchange believes that the proposed change will permit the Exchange to set fees for ports that are competitive with those charged by other exchanges.[13] Moreover, the Exchange believes that charging different rates for users with five or fewer order/quote entry ports as compared to users with more than five ports would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act because the Exchange believes that a reduction in the number of order/quote entry ports would result in a decrease in the infrastructure that the Exchange is required to support for connectivity to its trading systems. This would also provide incentive for users to become more efficient with their use of ports and could therefore result in such users becoming more competitive due to decreased costs. In this regard, the Exchange notes that at least one of the Exchange's competitors charges different rates depending on the number of ports utilized.[14]

Finally, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive. In such an environment, the Exchange must continually review, and consider adjusting, its fees and credits to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed rule change reflects this competitive environment.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)[15] of the Act and subparagraph (f)(2) of Rule 19b–4[16] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(4) and (5).

[9] For example, the charge on the NASDAQ Stock Market LLC ("NASDAQ") for a FIX Trading Port is $500 per port per month. *See* Nasdaq Rule 7015. A separate charge for Pre-Trade Risk Management ports also is applicable, which ranges from $400 to $600 and is capped at $25,000 per firm per month. *See* Nasdaq Rule 7016. EDGA Exchange, Inc. ("EDGA") and EDGX Exchange, Inc. ("EDGX") also each charge $500 per port per month.

[10] *See supra* note 5.

[11] The Exchange also notes that at least one of its competitors charges different rates depending on the number of ports utilized. Specifically, EDGA and EDGX each provide the first five ports for free.

[12] 15 U.S.C. 78f(b)(8).

[13] *See supra* note 9.

[14] *See supra* note 11.

[15] 15 U.S.C. 78s(b)(3)(A).

[16] 17 CFR 240.19b–4(f)(2).

temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [17] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NYSE–2013–45 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2013–45. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2013–45 and should be submitted on or before August 7, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2013–17098 Filed 7–16–13; 8:45 am]

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[17] 15 U.S.C. 78s(b)(2)(B).

[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69970; File No. SR–NYSE–2013–47]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Section 312.07 of the Listed Company Manual To Remove the 50% Quorum Requirement and Add Certain Clarifying Language

July 11, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 28, 2013, New York Stock Exchange LLC (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Section 312.07 of the Listed Company Manual (the ''Manual'') to remove the requirement that the total vote cast on any proposal requiring shareholder approval under NYSE rules must represent over 50% in interest of all securities entitled to vote on the proposal.

The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

[1] 15 U.S.C.78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Section 312.07 of the Manual to remove the requirement that the total vote cast on any proposal requiring shareholder approval under NYSE rules must represent over 50% in interest of all securities entitled to vote on the proposal.[3]

Section 312.07 establishes voting requirements for any shareholder meeting proposal where shareholder approval of that proposal is a prerequisite to the listing of any additional or new securities.[4] The rule requires approval by a majority of votes cast on any such proposal, subject to a quorum requirement that the total vote cast on the proposal must represent over 50% in interest of all securities entitled to vote on the proposal.[5]

The Exchange notes that listed companies are subject to quorum requirements under the laws of their states of incorporation.[6] In addition, the

[3] The Commission notes that the Exchange has also proposed to amend Section 312.07 to add ''or where any matter requires shareholder approval'' to the rule text.

[4] Section 312.03 of the Manual requires shareholder approval of the sale or transfer by the listed company of shares of common stock or securities convertible into or exercisable for common stock where the size of the issuance exceeds thresholds established in the rule or would result in a change of control. Section 303A.08 requires shareholder approval of equity compensation plans and material amendments thereto.

[5] Section 306.00 of the Manual provides that listed companies may use written consents in lieu of a special meeting to the extent permitted by applicable state and federal law and rules (including interpretations thereof), including, without limitation, Regulations 14A and 14C under the Act.

[6] For example, Delaware allows companies to establish their own quorum requirements in their certificates of incorporation or bylaws, provided

Continued

by-laws or other governing documents of listed companies frequently include more stringent voting requirements than imposed by state law.[7] In light of the protection afforded to shareholders by those other applicable requirements, the Exchange believes that the quorum requirement of Section 312.07 is unnecessary. The Exchange also believes that requiring companies to comply with a separate NYSE quorum requirement with respect to a limited category of proposals is confusing to companies and their shareholders, as it requires companies to disclose and apply two separate quorum requirements with respect to those matters, while applying only the requirements of their certificate of incorporation or bylaws or state law for all other proposals being voted on at the meeting.[8] The Exchange also notes that neither of the other two primary equities listing markets in the United States—the NASDAQ Stock Exchange LLC (''NASDAQ'') and NYSE MKT LLC (''NYSE MKT'')—has a quorum requirement comparable to that included in Section 312.07.[9]

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) [10] of the Exchange in general, and furthers the objectives of Section 6(b)(5) [11] of the Act in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanisms of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange believes that the proposed amendment is consistent with the protection of investors and the public interest in that the laws of the various states have quorum requirements and many companies' own by-laws establish more stringent requirements than imposed by state law.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. In this regard, the Exchange notes that the competition among exchanges for listings is robust and vigorous, and the proposed rule change is not intended, nor is it expected, to reduce or diminish such competition. By conforming the NYSE's voting requirements to those of NASDAQ, the proposed rule change would potentially increase competition for listings of companies that are concerned about their ability to meet the existing NYSE quorum requirements.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [12] and Rule 19b–4(f)(6) thereunder.[13] Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6) [14] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b4(f)(6)(iii),[15] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because such waiver would allow the Exchange immediately to harmonize its quorum requirement for listed companies with analogous quorum requirements of other primary listing exchanges, such as NYSE MKT and NASDAQ. The Commission further notes that as a result of the rules of these other listing markets, listed companies can already list on a primary market while not having to comply with a 50% quorum requirement.[16] Accordingly, the

that the quorum must be at least one-third of the shares entitled to vote on the matter. In the absence of a quorum provision in the company's certificate of incorporation or bylaws, Delaware requires a quorum of 50% of the shares entitled to vote on the matter. *See* Del. Code Sec. 216.

[7] Section 310.00 of the Manual provides that the quorum required for any meeting should be sufficiently high to insure a representative vote and that the Exchange will give careful consideration to provisions fixing any proportion less than a majority of the outstanding shares as the quorum for shareholders' meetings. Section 310 provides that the Exchange will generally not object to reasonable lesser quorum requirements if the company solicits proxies for shareholder meetings. Typically, companies seeking to list on the Exchange require a majority of outstanding shares as the quorum for a shareholders' meeting. On occasion, however, the Exchange has listed a company with a quorum requirement of less than a majority of outstanding shares consistent with applicable state law. The Exchange is not aware, however, that any company with a quorum requirement of less than one-third of outstanding shares (except for companies entitled to rely on the provisions set forth in Section 103.00 of the Manual) has previously been listed on the Exchange. Additionally, the Exchange will not list a company with a quorum requirement of less than one-third of outstanding shares (except for companies entitled to rely on the provisions set forth in Section 103.00 of the Manual) going forward.

[8] The Exchange notes that further confusion is generated by the different treatment of broker non-votes under Section 312.07 and state law. The broker non-vote at a shareholder meeting represents those shares held by brokers as registered holders on behalf of beneficial owners who do not provide voting instructions. Under some state law, broker non-votes are generally deemed to be present for quorum purposes. However, it has been the NYSE's longstanding interpretation of Section 312.07 that broker non-votes should not be counted in determining whether a majority of the shares outstanding and entitled to vote have been voted. The NYSE's treatment of broker non-votes for purposes of Section 312.07 has long been a source of confusion among listed companies and their service providers.

[9] The Commission notes that under Section 312.07, the minimum vote which will constitute shareholder approval is a majority of votes cast on a proposal, and that Section 310 contains general quorum requirements that will still apply to all shareholder meetings as discussed in footnotes 7 and 16.

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

[12] 15 U.S.C. 78s(b)(3)(A)(iii).

[13] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[14] 17 CFR 240.19b–4(f)(6).

[15] 17 CFR 240.19b–4(f)(6)(iii).

[16] The Commission notes that, as discussed in footnote 7 above, Section 310.00 of the Manual provides that the quorum required for any meeting should be sufficiently high to insure a representative vote and that the Exchange will give careful consideration to provisions fixing any proportion less than a majority of the outstanding shares as the quorum for shareholders' meetings. Also, the Exchange has represented in footnote 7 above, that the Exchange is not aware that any company with a quorum requirement of less than

Commission hereby grants the Exchange's request and designates the proposal operative upon filing.[17]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2013–47 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2013–47. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make publicly available. All submissions should refer to File Number SR–NYSE–2013–47 and should be submitted on or before August 7, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Elizabeth M. Murphy,

Secretary.

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BILLING CODE 8011–01–P

one-third of outstanding shares (except for companies entitled to rely on the provisions set forth in Section 103.00 of the Manual) has previously been listed on the Exchange. In addition, the Exchange represented, in footnote 7, that it will not list a company with a quorum requirement of less than one-third of outstanding shares (except for companies entitled to rely on the provisions set forth in Section 103.00 of the Manual) going forward. The Commission notes that these quorum requirements, which apply to all shareholder meetings, including ones where the shareholder approval matters in Section 312 are presented, are at least as stringent as NASDAQ's (*see* NASDAQ Rule 5620(c)).

[17] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69977; File No. SR–OCC–2013–05]

Self-Regulatory Organizations; The Options Clearing Corporation; Order Approving Proposed Rule Change To Provide That OCC, Rather Than an Adjustment Panel of the Securities Committee, Will Determine Adjustments to the Terms of Options Contracts To Account for Certain Events, Such as Certain Dividend Distributions or Other Corporate Actions, That Affect the Underlying Security or Other Underlying Interest

July 11, 2013.

I. Introduction

On May 15, 2013 The Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change SR–OCC–2013–05 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder.[2] The proposed rule change was published for comment in the **Federal Register** on June 3, 2013.[3] The Commission received no comment letters. This order approves the proposed rule change.

II. Description

Certain corporate actions—such as declaration of dividends or distributions, stock splits, rights offerings, reorganizations, or the merger or liquidation of an issuer—affecting an underlying security may require an adjustment to the terms of the overlying options. The principal purpose of this rule change is to authorize OCC, rather than adjustment panels of the Securities Committee,[4] to determine option contract adjustments and to determine the value of distributed property involved in such adjustments.

Article VI, Section 11 of OCC's By-Laws provide that all adjustments to option contracts are currently determined on a case-by-case basis by an adjustment panel of the Securities Committee composed of two representatives[5] of each exchange that trades an option on the underlying security and the OCC Chairman (or his representative). All actions are determined by majority vote, with OCC voting only to break a tie. Besides determining particular adjustments in individual cases, Article VI, Section 11 also authorizes the Securities Committee to adopt statements of policy or interpretations governing option adjustments in general. Additionally, the Securities Committee is authorized to determine the value of distributed property involved in stock option adjustments as stated in Article VI, Section 11A(f).

Discussions among OCC and the options exchanges concerning potential changes to Securities Committee governance in respect of adjustments

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 34–69642 (May 28, 2013), 78 FR 33138 (June 3, 2013).

[4] The OCC Securities Committee is authorized under OCC By-Law Article VI Section 11(a) to determine contract adjustments in particular cases and to formulate adjustment policy or interpretations having general applicability. The Securities Committee is comprised of representatives of OCC's participant options exchanges and authorized representatives of OCC.

[5] The Commission has approved an amendment to OCC's By-Laws under which only one representative of each relevant exchange is required on an adjustment panel. Securities Exchange Act Release No. 34–67333 (July 2, 2012), 77 FR 40394 (July 9, 2012) (SR–OCC–2012–07). However, the amendment will not be implemented until an amendment to the Options Disclosure Document reflecting this change is made. Interpretation and Policy .01 to Article VI, Section 11 clarifies that until such time as the amendment to the Options Disclosure Document is made and only one representative is required, an adjustment panel must have two representatives of each exchange that trades an option on the underlying security.

yielded a consensus that the exchanges should retain policy-making authority under the adjustment By-Laws through the Securities Committee but that OCC should be the sole determiner of particular adjustment decisions, thereby eliminating adjustment panels convened for the purpose of determining adjustments of particular option contracts. Under the rule change:

(i) The policy making role of the Securities Committee will be unchanged. As members of the Securities Committee, exchanges will retain authority to determine adjustment policy in general.

(ii) OCC will apply the adjustment By-Laws and Interpretations to determine particular adjustments on a case-by-case basis. An adjustment panel comprised of exchange and OCC representatives will *not* be called to determine a particular adjustment.

(iii) OCC and the exchanges will retain unrestricted ability to mutually discuss considerations pertaining to any adjustment decision or policy.

(iv) OCC will have authority to determine the value of distributed property involved in contract adjustments.

Notwithstanding the elimination of exchange representative adjustment panels, panels of exchange representatives will retain their existing functions and authority under other provisions of OCC's By-Laws.[6] The types of adjustments for which exchange representative panels may continue to be convened will be limited to rare situations involving market closures or the unavailability of accurate pricing.

As a result of this rule change, adjustment panels for the purpose of determining adjustments of particular options contracts will cease to exist and exchanges will have no obligation or authority to determine a particular adjustment. OCC will determine the appropriate application of the By-Laws and Interpretations and Policies, but the exchanges will retain policy making authority as members of the Securities Committee. In this policy making capacity, actions of the Securities Committee will continue to require approval by a majority vote.

OCC states that occasionally there may be unique aspects of a corporate event that justify departure from adjustment policy or precedent, or that involve a situation for which there is no existing adjustment policy or precedent. Such events may also highlight a need for a more general reformulation of adjustment policy. Under this rule change, if OCC determines such aspects to be present, OCC will determine in its sole discretion any adjustment to be applied in the particular case. The Securities Committee will not initiate policy changes ''ad hoc'' to address a particular case (which would be a *de facto* determination of a particular adjustment decision). Instead, after OCC determined a particular adjustment, the Securities Committee, in its discretion, will determine the appropriateness of adopting prospective policy changes or clarifications.[7]

OCC and the exchanges believe that they should retain unrestricted ability to discuss with each other any considerations pertaining to an adjustment decision or policy—with the understanding that adjustment decisions would be made solely by OCC and the exchanges would be involved solely in an advisory capacity.[8] Accordingly, this rule change does not prohibit either the exchanges or OCC from initiating conversations concerning adjustment policy or particular adjustment decisions, but neither would such consultation be required. Furthermore, to ensure continued exchange involvement in determining adjustment policy, OCC intends to call periodic meetings of the Securities Committee, to be held on a quarterly or more frequent period basis, to discuss policy issues and review recent experience with contract adjustments.[9]

The rule change will apply only to the functions of OCC and the Securities Committee in the determination of option contract adjustments as described in Article VI, Sections 11 and other By-Law provisions. The Securities Committee—or panels comprised of representatives of the Securities Committee—in respect of actions that do *not* involve option contract adjustments will retain all other functions and authority granted under the By-Laws, including, for example, the ability to fix index option settlement values in cases of market disruption and similar actions.

In addition to the principal purpose underlying this rule change, OCC is making certain other conforming and/or clarifying changes to the By-Laws relating to adjustments and/or adjustment panels. Specifically, OCC is modifying or eliminating certain adjustment related By-Law provisions because, due to industry or other changes, there is no longer any open interest in options covered by such provisions. OCC is eliminating other stale provisions, including those found within Interpretation and Policy .01 under the Article VI, Section 11, which relate to the determination of ''ordinary cash dividends or distributions'' for which no adjustment is ordinarily made. OCC is also making changes to Article XIV, Section 3A(a)(3) in relation to binary options for which the underlying is an equity interest. OCC is also making changes to Article XIV Section 3A to reflect a clarifying interpretation issued by the Securities Committee with respect to determinations of corporate issuers to accelerate or defer payments of otherwise ordinary dividends.[10] Other conforming changes being made by OCC update cross-references to By-Laws and Rules that are being amended.

III. Discussion

Section 19(b)(2)(C) of the Act [11] directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such organization. Section 17A(b)(3)(F) of the Act [12] requires that the rules of a clearing agency are designed to, among other things, promote the prompt and accurate clearance and settlement of securities transactions and foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions.

[6] For example, those panels will retain the authority to fix exercise settlement amounts for cash-settled options where a closing price for the underlying is otherwise unavailable.

[7] This approach was followed in 2006 in response to a special cash dividend. In that case, adjustment panels determined to depart from precedent and adjust certain ETF options where the ETF distributed pro rata dividends based on the amount of a special dividend paid by the issuer of one of the component stocks in the ETF. Following these adjustments, the Securities Committee recommended to the OCC Board a policy reformulation. *See* Interpretation .08 to Article VI, Section 11A.

[8] Although OCC and the exchanges believe it is feasible for OCC to independently determine adjustments, both are averse to losing valuable exchange experience and insight that is now brought to bear in adjustment decisions.

[9] As a practical matter, even if adjustments are determined solely by OCC it would still be necessary for OCC and the exchanges to coordinate the operational execution of all option adjustments. This coordination includes, but is not limited to, the determination of an effective date, option symbols and strike prices and the publication of notices.

[10] OCC's Securities Committee is empowered under the By-Laws to adopt statements of policy or interpretations having general application to specified types of events or specific kinds of cleared contracts. The Securities Committee determined that such events would not, as a general rule, affect the ordinary nature of such dividends subject to the evaluation of these events on a case-by-case basis.

[11] 15 U.S.C. 78s(b)(2)(C).

[12] 15 U.S.C. 78q–1(b)(3)(F).

By providing OCC with sole discretion for particular adjustment decisions, the rule change helps to ensure that decisions are consistent, efficient and free from undue influence. As a result, the rule change should help to promote the prompt and accurate clearance and settlement of securities transactions as well as foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions consistent with Section 17A(b)(3)(F) of the Act.[13] Furthermore, in addition to ensuring consistency with Section 17A(b)(3)(F) of the Act,[14] the conforming and clarifying changes to OCC's By-Laws and Rules should help ensure that OCC maintains a well-founded, transparent and enforceable legal framework as required by Rule 17Ad–22(d)(1).[15]

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act[16] and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[17] that the proposed rule change (File No. SR–OCC–2013–05) be and hereby is *approved.*[18]

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.[19]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2013–17099 Filed 7–16–13; 8:45 am]

BILLING CODE 8011–01–P

[13] 15 U.S.C. 78q–1(b)(3)(F).

[14] 15 U.S.C. 78q–1(b)(3)(F).

[15] 17 CFR 240.17Ad–22(d)(1).

[16] 15 U.S.C. 78q–1.

[17] 15 U.S.C. 78s(b)(2).

[18] In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[19] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Small Business Size Standards: Waiver of the Nonmanufacturer Rule

AGENCY: U.S. Small Business Administration.

ACTION: Notice of intent to rescind the class waiver of the Nonmanufacturer Rule for NAICS Code 335999, *All Other Miscellaneous Electrical Equipment and Component Manufacturing.*

SUMMARY: The U. S. Small Business Administration (SBA) intends to rescind a class waiver of the Nonmanufacturer Rule for *All Other Miscellaneous Electrical Equipment and Component Manufacturing,* under the North American Industry Classification System (NAICS) code 335999. According to the request, there is at least one small business manufacturer of the various supplies listed under the *All Other Miscellaneous Electrical Equipment and Component Manufacturing* descriptor that has conducted business with the Federal Government within the previous 24 months. Additionally, SBA's independent research resulted in discovery of other small business manufacturers for the various items listed under the *All Other Miscellaneous Electrical Equipment and Component Manufacturing* descriptors.

DATES: Comments and source information must be submitted August 1, 2013.

ADDRESSES: You may directly submit comments and source information to regulations.gov at URL *http://www.regulations.gov/#!home* or Edward Halstead, Procurement Analyst, Small Business Administration, Office of Government Contracting, 409 3rd Street SW., Suite 8022, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Mr. Edward Halstead, Procurement Analyst, by telephone at (202) 205–6855 or by email at *Edward.halstead@sba.gov.*

SUPPLEMENTARY INFORMATION: Section 8(a)(17) of the Small Business Act (Act), 15 U.S.C. 637(a)(17), and SBA's implementing regulations require that recipients of Federal supply contracts set aside for small businesses, Service Disabled Veteran-Owned small businesses, Women-Owned Small Businesses, or Participants in SBA's 8(a) Business Development Program provide the product of a small business manufacturer or processor, if the recipient is other than the actual manufacturer or processor of the product. This requirement is commonly referred to as the Nonmanufacturer Rule. 13 CFR 121.406(b), 125.15(c). Section 8(a)(17)(b)(iv) of the Act authorizes SBA to waive the Nonmanufacturer Rule for any ''product or class'' for which there are no small business manufacturers or processors available to participate in the Federal market.

In order to be considered available to participate in the Federal market for a product or class of products, a small business manufacturer must have submitted a proposal for a contract solicitation or received a contract from the Federal Government within the last 24 months. 13 CFR121.1202(c). SBA defines ''class of product or products'' based on the specific item descriptions found in the Office of Management and Budget's North American Industry Classification System (NAICS) online manual. SBA may then identify a specific item or items within a NAICS code to which a class waiver would apply.

SBA is currently processing a request to rescind the Nonmanufacturer Rule for All Other Miscellaneous Electrical Equipment and Component Manufacturing, under North American Industry Classification System (NAICS) code 335999. The public is invited to comment or provide source information to SBA on the proposed waiver of the Nonmanufacturer Rule for the within 15 days after the date of posting in the **Federal Register**.

Dated: Ju1y 11, 2013.

Ajoy K. Sinah,

Deputy Director, Office of Government Contracting.

[FR Doc. 2013–17035 Filed 7–16–13; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2013–0176, Notice No. 13–11]

Safety Advisory: Unauthorized Filling of Compressed Gas Cylinders

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Safety Advisory Notice.

SUMMARY: This is to notify the public that PHMSA has confirmed that North American Coil and Beverage Group, 15641 E 10 Mile Road, Eastpointe, MI, 48021, improperly filled and offered for transportation high pressure compressed gas cylinders without verifying that they met the appropriate safety requirements for continued use. The Eastpointe Michigan Fire Department alerted the Michigan State Police, who in turn alerted PHMSA of an incident on June 25, 2013, in which a high pressure DOT 3A 1800 cylinder filled and provided by North American Coil and Beverage Group with carbon dioxide catastrophically burst at Sullivan's Bar in Eastpointe, Michigan

FOR FURTHER INFORMATION CONTACT: North American Coil and Beverage Group: Mr. Len Santamaria, Manager, 15641 E 10 Mile Road, Eastpointe,

Michigan 48021, Telephone (586) 775–7229, to arrange for the return of these empty cylinders.

SUPPLEMENTARY INFORMATION: PHMSA determined that North American Coil and Beverage Group improperly filled various types of high pressure US DOT and special permit cylinders with compressed gases without verifying that they met the appropriate safety requirements for continued use. The DOT 3A 1800 cylinder that failed was manufactured by Morcar in 1973 and had not been requalified since May, 1996. DOT 3A 1800 cylinders used in carbon dioxide service must be successfully requalified through a visual inspection and a pressure test at least once every 5 years. Cylinders that are not properly and routinely inspected and requalified as required may not possess the structural integrity to safely contain their contents under pressure during normal transportation and use. Extensive property damage, serious personal injury, or death could result from a rupture of a cylinder.

Because North American Coil and Beverage Group did not have their cylinders requalified prior to filling them and the fact that one catastrophically failed, PHMSA questions the condition of all of the cylinders owned and filled by North American Coil and Beverage. These cylinders should be considered unsafe and unauthorized for the filling of hazardous material unless and until they are first tested properly by an individual or company authorized by DOT to requalify DOT specification cylinders. Anyone who had their carbonated beverage service cylinders filled and provided by North American Coil and Beverage Group is advised to remove these cylinders from service immediately and contact a cylinder filler to have the cylinders depressurized. North American Coil and Beverage Group will contact their customers with further instructions on returning the empty cylinders.

Issued in Washington, DC, on July 12, 2013.

Magdy El-Sibaie,

Associate Administrator for Hazardous Materials Safety, Pipeline and Hazardous Materials Safety Administration.

[FR Doc. 2013–17121 Filed 7–16–13; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2013–0157, [Notice No. 13–10]]

SafetyAlert: Safety Alert: Risks Associated With Liquid Petroleum (LP) Gas Odor Fade

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Safety Alert Notice.

SUMMARY: PHMSA is issuing this safety alert to notify the public of the risks associated with the under-odorization of Liquefied Petroleum Gases (LPG). LPG is an odorless and colorless gas that under certain conditions is required to be odorized for leak detection. The purpose of this alert is to advise shippers and carriers of the recommended procedures to ensure that LPG is properly odorized by all modes of transportation.

FOR FURTHER INFORMATION CONTACT: Charles Betts, Director, (email: *charles.betts@dot.gov)* or Delmer Billings, Senior Regulatory Advisor (email: *delmer.billings@dot.gov*), Standards and Rulemaking Division, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington DC 20590. Telephone: (202) 366–8553, Fax: (202) 366–7435.

SUPPLEMENTARY INFORMATION: PHMSA is aware of several incidents possibly attributed to either the under-odorization or odorant fade of liquefied petroleum gas (LPG). Most notable of these incidents is one that happened in Norfolk, MA on July 30, 2010 where an explosion occurred at a residential condominium complex that was under construction. Emergency responders from 21 cities/towns deployed personnel to the accident site. The accident resulted in seven injuries and one fatality.

The subsequent investigation raised questions as to whether there was a sufficient level of odorant in the LPG contained in the on-site storage tanks. In accordance with Federal and State laws and regulations, LPG intended for use by non-industrial entities is generally required to be odorized, or stenched, to enable the detection of any unintended release or leak of the gas. LPG is highly flammable and dangerous to inhale in large quantities. The added odorant is a safety precaution that helps warn those in the area that a release of gas has occurred. In the Norfolk incident, there appeared to be no warning, i.e. odorant smell, prior to the explosion, that the on-site LPG storage tank was leaking. PHMSA has consulted with stakeholders from industry, fire fighter associations, and other regulatory agencies in order to better understand the root cause of incidents like the one in Norfolk. Although additional research may be necessary in order to come to more definitive conclusions, PHMSA has identified situations in which the risks of under-odorization or odor fade are more likely to occur. These situations are outlined below along with recommendations to mitigate potential risk factors that might lead to preventable outcomes.

Injection Process: On December 13, 2012, PHMSA met with representatives from the National Propane Gas Association (NPGA) to gain a better understanding of the LPG odorization process. During this meeting, representatives from the NPGA stated that the most common method for the odorization of LPG is through an automated system. However, the NPGA also noted there are situations where the odorization process is manually performed. Preliminary investigations into the Norfolk, MA incident suggest that the lack of sufficient odorization rendered the LPG undetectable when the on-site storage tank began to leak. In situations where the injection process is not fully automated, the potential for human error may increase the possibility of under-odorization. We believe that the insufficient level of odorant in the LPG contained in the on-site storage tank involved in the Norfolk, MA incident was likely a major contributing factor in restricting the ability of on-site personnel to readily detect the leak. Therefore, in this safety alert, PHMSA recommends that when the odorization of LPG is being accomplished by a manual injection process, quality control checks should be conducted to ensure that the requisite amount of odorant is being injected. Additionally, PHMSA recommends that when odorization of LPG is automatically injected, equipment calibration checks should be periodically performed to ensure consistent injection levels of the required odorant.

New Tanks or Freshly Cleaned Tanks: During our meetings with various stakeholders, several indicated that a phenomenon known as ''odor fade'' may be a problem when new or recently cleaned tanks are used. New or recently cleaned tanks may absorb the odorant into the metal shell of these tanks, thus limiting the effectiveness of the remaining odorant in the LPG. Based on

this belief, we recommend that persons who receive new or recently cleaned tanks be notified of this fact and that persons filling these tanks implement appropriate quality control measures to ensure that potential odorant fade is adequately addressed. Such quality control measures will ensure that when delivered to end users, the LPG has sufficient odorant to be detected should a leak occur.

Odorization Standards: The odorization of LPG is addressed by a myriad of Federal and State laws and regulations, as well as, by accepted industry standards and practices. When offered and transported in commerce, the HMR specifies that *all* LPG in cargo and portable tanks be effectively odorized using either 1.0 pound of ethyl mercaptan, 1.0 pound of thiopane, or 1.4 pounds of amyl mercaptan per 10,000 gallons of LPG, in the event of an unintended release or leak to indicate the presence of gas. The HMR do not, however, require LPG to be ordorized if odorization would be harmful in the use or further processing of the LPG, or if odorization will serve no useful purpose as a warning agent in such use or further processing. Essentially, this exception applies to LPG being transported to industrial end-users.

Although the HMR requires odorization of LPG in cargo tanks and portable tanks, there are no such requirements in the HMR for rail tank car tanks and cylinders. Therefore, in this safety alert, PHMSA recommends that all LPG transported in rail tank car tanks or cylinders be odorized in accordance with the requirements of § 173.315(b)(1), of the HMR, unless odorization would be harmful in the use or further processing of the LPG, or if odorization will serve no useful purpose as a warning agent in such use or further processing.

Issued in Washington, DC on July 12, 2013.

Magdy El-Sibaie,

Associate Administrator for Hazardous Materials Safety, Pipeline and Hazardous Materials Safety Administration.

[FR Doc. 2013–17120 Filed 7–16–13; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Supplemental Identification Information for One Individual Designated Pursuant to Executive Order 13573

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control (''OFAC'') is publishing supplemental information for the name of one individual whose property and interests in property are blocked pursuant to Executive Order 13573 of May 18, 2011, ''Blocking Property of Senior Officials of the Government of Syria.''

DATES: The publishing of updated information by the Director of OFAC of the individual in this notice is effective on July 11, 2013.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Sanctions Compliance & Evaluation, Office of Foreign Assets Control, Department of the Treasury, 1500 Pennsylvania Avenue NW. (Treasury Annex), Washington, DC 20220, Tel.: 202/622–2490.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available from OFAC's Web site (*www.treas.gov/ofac*) or via facsimile through a 24-hour fax-on-demand service, Tel.: 202/622–0077.

Background

On July 18, 2012, the Director of OFAC, in consultation with the Department of State, designated Adib MAYALEH pursuant to one or more of the criteria set forth in subsection 1(b) of Executive Order 13573 of May 18, 2011, ''Blocking Property of Senior Officials of the Government of Syria.'' The notice of this action was published in the **Federal Register** on July 25, 2012, at 77 FR 43658. On July 11, 2013, the Director of OFAC supplemented the identification information for this individual.

The listing for this individual on OFAC's list of Specially Designated Nationals and Blocked Persons, which includes the additional identification information, appears as follows:

Individual

1. MAYALEH, Adib (a.k.a. MIYAL, Andre; a.k.a. MAYALA, Adib); DOB 1955; POB Daraa, Syria; Governor of Central Bank of Syria (individual) [SYRIA].

Dated: July 11, 2013.

Adam Szubin,

Director, Office of Foreign Assets Control.

[FR Doc. 2013–17134 Filed 7–16–13; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 709

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 709, United States Gift (and Generation-Skipping Transfer) Tax Return.

DATES: Written comments should be received on or before September 16, 2013 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette Lawrence, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, or at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet, at *Martha.R.Brinson@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: United States Gift (and Generation-Skipping Transfer) Tax Return.

OMB Number: 1545–0020.

Form Number: 709.

Abstract: Form 709 is used by individuals to report transfers subject to the gift and generation-skipping transfer taxes and to compute these taxes. The IRS uses the information to collect and enforce these taxes, to verify that the taxes are properly computed, and to compute the tax base for the estate tax.

Current Actions: There are no changes being made to Form 709 at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 278,500.

Estimated Time per Respondent: 5 hours, 47 minutes.

Estimated Total Annual Burden Hours: 1,609,730.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 25, 2013.

Allan Hopkins,

Tax Analyst.

[FR Doc. 2013–17085 Filed 7–16–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0593]

Agency Information Collection (Caution to Bidders—Bid Envelopes) Activities Under OMB Review

AGENCY: Office of Acquisition and Logistics, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Office of Acquisition and Materiel Management, Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before August 16, 2013.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov;* or to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to ''OMB Control No. 2900–0593'' in any correspondence.

For Further Information or a Copy of the Submission Contact: Crystal Rennie, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 632–7492 or email: *crystal.rennie@va.gov.* Please refer to ''OMB Control No. 2900–0593.''

SUPPLEMENTARY INFORMATION:

Title: Veterans Affairs Acquisition Regulation (VAAR) Provision 852.214–70, Caution to Bidders—Bid Envelopes.

OMB Control Number: 2900–0593.

Type of Review: Revision of a currently approved collection.

Abstract: VAAR provision 852.214—70, Caution to Bidders—Bid Envelopes, advises bidders that it is their responsibility to ensure that their bid price cannot be ascertained by anyone prior to bid opening. It also advises bidders to identify their bids by showing the invitation number and bid opening date on the outside of the bid envelope. The information requested from bidders is needed to identify bid envelopes from other mail or packages received and to ensure the bids are delivered to the proper bid opening room on time and prior to bid opening.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on April 11, 2013, at pages 21700–21711.

Affected Public: Business or other for profit.

Estimated Annual Burden: 2 hours.

Estimated Average Burden per Respondent: 10 seconds.

Frequency of Response: On occasion.

Estimated Number of Respondents: 640.

Dated: July 11, 2013.

By direction of the Secretary.

Crystal Rennie,

VA Clearance Officer, U.S. Department of Veterans Affairs.

[FR Doc. 2013–17031 Filed 7–16–13; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0589]

Agency Information Collection (Purchase of Shellfish) Activities Under OMB Review

AGENCY: Office of Acquisition and Logistics, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Office of Acquisition and Materiel Management, Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before August 16, 2013.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov;* or to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to ''OMB Control No. 2900–0589'' in any correspondence.

For Further Information or a Copy of the Submission Contact: Crystal Rennie, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 632–7492 or email: *crystal.rennie@va.gov.* Please refer to ''OMB Control No. 2900–0589.''

SUPPLEMENTARY INFORMATION:

Title: Veterans Affairs Acquisition Regulation (VAAR) Provision 852.270–3, Shellfish.

OMB Control Number: 2900–0589.

Type of Review: Revision of a currently approved collection.

Abstract: VAAR clause 852.270–3, Purchase of Shellfish, requires that a firm furnishing shellfish to VA must ensure that the shellfish is packaged in a container that is marked with the packer's State certificate number and State abbreviation. In addition, the firm must ensure that the container is tagged

or labeled indicating the name and address of the approved producer or shipper, the name of the State of origin, and the certificate number of the approved producer or shipper. The information is used to ensure that shellfish purchased by VA comes from a State- and Federal-approved and inspected source.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on April 15, 2013 at pages 22366–22367.

Affected Public: Business or other for profit.

Estimated Annual Burden: .5 hours.

Estimated Average Burden per Respondent: 1 minute.

Frequency of Response: On occasion.

Estimated Number of Respondents: 25.

Dated: July 11, 2013.

By direction of the Secretary.

Crystal Rennie,

VA Clearance Officer, U.S. Department of Veterans Affairs.

[FR Doc. 2013–17030 Filed 7–16–13; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0586]

Agency Information Collection (Technical Industry Standards) Activities Under OMB Review

AGENCY: Office of Acquisition and Logistics, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Office of Acquisition and Materiel Management, Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before August 16, 2013.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov;* or to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to ''OMB Control No. 2900–0586'' in any correspondence.

For Further Information or a Copy of the Submission Contact: Crystal Rennie, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 632–7492 or email: *crystal.rennie@va.gov.* Please refer to ''OMB Control No. 2900–0586.''

SUPPLEMENTARY INFORMATION:

Title: Veterans Affairs Acquisition Regulation (VAAR) Provision 852.211–72 (formerly 852.211–75), Technical Industry Standards.

OMB Control Number: 2900–0586.

Type of Review: Revision of a currently approved collection.

Abstract: VAAR provision 852.211–72, Technical Industry Standards, requires items offered for sale to VA under the solicitation conform to certain technical industry standards, such as Underwriters Laboratory (UL) or the National Fire Protection Association. Contractor must furnish evidence to VA stating that the items meet the requirements. The evidence can be in a tag or seal affixed to the item, such as the UL tag on an electrical cord or a tag on a fire-rated door. Items that do not meet the standards or not previously tested must come with a certificate from an acceptable laboratory certifying that the items furnished were tested in accordance with, and conform to, the specified standards.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on April 15, 2013, at page 22366.

Affected Public: Business or other for profit.

Estimated Annual Burden: 1,225 hours.

Estimated Average Burden per Respondent: 30 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 2,450.

Dated: July 11, 2013.

By direction of the Secretary.

Crystal Rennie,

VA Clearance Officer, U.S. Department of Veterans Affairs.

[FR Doc. 2013–17016 Filed 7–16–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0585]

Agency Information Collection (Brand Name or Equal) Activities Under OMB Review

AGENCY: Office of Acquisition and Logistics, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Office of Acquisition and Logistics, Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before August 16, 2013.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov;* or to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to ''OMB Control No. 2900–0585'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Crystal Rennie, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 632–7492, or email *crystal.rennie@va.gov.* Please refer to ''OMB Control No. 2900–0585.''

SUPPLEMENTARY INFORMATION:

Title: Veterans Affairs Acquisition Regulation (VAAR) Clause 852.211–77, Brand Name or Equal (was 852.210–77).

OMB Control Number: 2900–0585.

Type of Review: Revision of a currently approved collection.

Abstract: VAAR clause 852.211–77 advises bidders or offerors who are proposing to offer an item that is alleged to be equal to the brand name item stated in the bid, that it is the bidder's or offeror's responsibility to show that the item offered is in fact, equal to the brand name item. This evidence may be in the form of descriptive literature or material, such as cuts, illustrations, drawings, or other information. While submission of the information is voluntary, failure to provide the information may result in rejection of the firm's bid or offer if the Government cannot otherwise determine that the

item offered is equal. The contracting officer will use the information to evaluate whether or not the item offered meets the specification requirements.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on April 11, 2013, at pages 21711–21712.

Affected Public: Business or other for-profit and Not-for-profit institutions.

Estimated Annual Burden: 1,125 hours.

Estimated Average Burden per Respondent: 10 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 6,750.

Dated: July 11, 2013.

By direction of the Secretary:

Crystal Rennie,

VA Clearance Officer, U.S. Department of Veterans Affairs.

[FR Doc. 2013–17036 Filed 7–16–13; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

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Part II

Department of Health and Human Services

45 CFR Part 155

Patient Protection and Affordable Care Act; Exchange Functions: Standards for Navigators and Non-Navigator Assistance Personnel; Consumer Assistance Tools and Programs of an Exchange and Certified Application Counselors; Final Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

45 CFR Part 155

[CMS–9955–F; CMS–2334–F2]

RIN 0938–AR75; 0938–AR04

Patient Protection and Affordable Care Act; Exchange Functions: Standards for Navigators and Non-Navigator Assistance Personnel; Consumer Assistance Tools and Programs of an Exchange and Certified Application Counselors

AGENCY: Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services (HHS).

ACTION: Final rule.

SUMMARY: This final rule addresses various requirements applicable to Navigators and non-Navigator assistance personnel in Federally-facilitated Exchanges, including State Partnership Exchanges, and to non-Navigator assistance personnel in State Exchanges that are funded through federal Exchange Establishment grants. It finalizes the requirement that Exchanges must have a certified application counselor program. It creates conflict-of-interest, training and certification, and meaningful access standards; clarifies that any licensing, certification, or other standards prescribed by a state or Exchange must not prevent application of the provisions of title I of the Affordable Care Act; adds entities with relationships to issuers of stop loss insurance to the list of entities that are ineligible to become Navigators; and clarifies that the same ineligibility criteria that apply to Navigators apply to certain non-Navigator assistance personnel.

The final rule also directs that each Exchange designate organizations which will then certify their staff members and volunteers to be application counselors that assist consumers and facilitate enrollment in qualified health plans and insurance affordability programs, and provides standards for that designation.

DATES: *Effective Date:* These regulations are effective on August 12, 2013.

FOR FURTHER INFORMATION CONTACT: Joan Matlack, (888) 393–2789.

SUPPLEMENTARY INFORMATION:

I. Background

On January 22, 2013, CMS issued a proposed rule which, among other things, proposed standards to ensure the availability of certified application counselors in the Exchange and proposed to clarify the training requirements under § 155.205(d) and (e), which govern the consumer assistance functions of the Exchange.[1] Certified application counselors were proposed as a type of assistance personnel to help individuals in each Exchange apply for enrollment in a qualified health plan (QHP) and in insurance affordability programs, which include Medicaid, Children's Health Insurance Program (CHIP), and advance payments of the premium tax credit and cost-sharing reductions in connection with QHPs offered through the Exchange. Subsequently, on April 5, 2013, CMS issued a proposed rule to create conflict-of-interest, training and certification, and meaningful access standards applicable to Navigators and non-Navigator assistance personnel in Federally-facilitated Exchanges, including State Partnership Exchanges, and to non-Navigator assistance personnel in State Exchanges that are funded through federal Exchange Establishment grants.[2] We are finalizing both proposals in this document to make it easier to understand these three types of assistance programs, the role each program plays, and the standards that are applicable to each program.

A. Introduction

The Patient Protection and Affordable Care Act (Pub. L. 111–148) was enacted on March 23, 2010; the Health Care and Education Reconciliation Act (Pub. L. 111–152) was enacted on March 30, 2010. These laws are collectively known as the Affordable Care Act.

Beginning on October 1, 2013, individuals, families, and small businesses will be able to purchase private health insurance through competitive marketplaces called Affordable Insurance Exchanges (Exchanges), also known as Health Insurance Marketplaces.

The Exchanges will provide competitive marketplaces where individuals and small employers can compare available private health insurance options on the basis of price, quality, and other factors. The Exchanges, which will offer coverage that is effective beginning as early as January 1, 2014, will help enhance competition in the health insurance market, improve choice of affordable health insurance, and give small businesses the same purchasing power as large businesses.

Pursuant to sections 1311(b) and 1321(b) of the Affordable Care Act, each state has the opportunity to establish an Exchange that (1) facilitates the purchase of insurance coverage by qualified individuals through Qualified Health Plans (QHPs); (2) assists qualified employers in the enrollment of their employees in QHPs; and (3) meets other standards specified in the Affordable Care Act. These are referred to as State Exchanges.

Section 1321(c)(1) of the Affordable Care Act requires the Secretary of HHS (''Secretary'') to establish and operate Exchanges within states that either: (1) Do not elect to establish an Exchange; or (2) as determined by the Secretary on or before January 1, 2013, will not have any required Exchange operational by January 1, 2014. These HHS-operated Exchanges are referred to as Federally-facilitated Exchanges. The Secretary has also explained through guidance that these Federally-facilitated Exchanges may include State Partnership Exchanges in which states may assume significant responsibility for key Exchange functions.[3] Generally, a State Partnership Exchange will take one of two forms: a State Plan Management Partnership Exchange or a State Consumer Partnership Exchange (Consumer Partnership Exchange). States may also assume both of these types of responsibilities.

Consumers can receive assistance from a variety of sources when seeking access to health insurance coverage through an Exchange. Sections 1311(d)(4)(K) and 1311(i) of the Affordable Care Act, and the regulation implementing those provisions, 45 CFR 155.210, direct all Exchanges to award grants to Navigators to conduct public education activities to raise awareness about the Exchange; provide fair, accurate, and impartial information to consumers about health insurance, the Exchange, QHPs, and insurance affordability programs, including premium tax credits, Medicaid, and the Children's Health Insurance Program (CHIP); facilitate enrollment in QHPs; to provide referrals to consumer assistance programs (CAPs) and health insurance ombudsmen for enrollees with

[1] Medicaid, Children's Health Insurance Programs, and Exchanges: Essential Health Benefits in Alternative Benefit Plans, Eligibility Notices, Fair Hearing and Appeal Processes for Medicaid and Exchange Eligibility Appeals and Other Provisions Related to Eligibility and Enrollment for Exchanges, Medicaid and CHIP, and Medicaid Premiums and Cost Sharing, 78 FR 4594 (proposed Jan. 22, 2013).

[2] Patient Protection and Affordable Care Act; Exchange Functions: Standards for Navigators and Non-Navigator Assistance Personnel, 78 FR 20581 (proposed April 5, 2013).

[3] *See* 77 FR 18310, 18325–26 (Mar. 27, 2012); General Guidance on Federally-facilitated Exchanges (May 16, 2012) at *http://www.cms.gov/CCIIO/Resources/Fact-Sheets-and-FAQs/Downloads/ffe-guidance-05-16-2012.pdf;* and Guidance on the State Partnership Exchange (Jan. 3, 2013) at *http://www.cms.gov/CCIIO/Resources/Fact-Sheets-and-FAQs/Downloads/partnership-guidance-01-03-2013.pdf.*

grievances, complaints, or questions about their health plan or coverage; and provide information in a manner that is culturally and linguistically appropriate. Navigators can play an important role in facilitating a consumer's enrollment in a QHP by providing fair, impartial, and accurate information that assists consumers with submitting the eligibility application, clarifying the distinctions among QHPs, and helping qualified individuals make informed decisions during the health plan selection process.

The Exchange regulations also authorize Exchanges to perform certain consumer service functions in addition to the Navigator program. 45 CFR 155.205(d) provides that each Exchange must conduct consumer assistance activities, and § 155.205(e) provides that each Exchange must conduct outreach and education activities to inform consumers about the Exchange and insurance affordability programs to encourage participation. The consumer assistance function authorized by § 155.205(d) includes the Navigator grant program established under section 1311(i) of the Affordable Care Act and § 155.210. Section 155.205(d) and (e) also allow for the establishment of a non-Navigator consumer assistance program. The non-Navigator assistance program authorized by § 155.205(d) and (e) will help ensure that the Exchange is providing outreach, education, and assistance to as broad a range of consumers as possible so that all consumers can receive help when accessing health insurance coverage through an Exchange. Non-Navigator assistance programs include what have sometimes been referred to as ''in-person assistance programs.'' State Exchanges may, but need not, establish non-Navigator assistance programs. However, a state that voluntarily participates in a State Partnership Exchange focusing on consumer assistance functions (also known as a Consumer Partnership Exchange) will be expected to establish and operate a non-Navigator assistance program as a condition of participation in the State Partnership Exchange, and will be expected to do so in a way that is consistent with the policies and interpretations HHS adopts for § 155.205(d) and (e) for the Federally-facilitated Exchanges.

Section 1311(i)(6) prohibits Exchanges from using section 1311(a) grant funds to fund Navigator programs. However, State Exchanges and state partners in Consumer Partnership Exchanges may use section 1311(a) Exchange Establishment grants to fund non-Navigator assistance programs consistent with the discussion of this policy that can be found at 78 FR 20583 through 20584 (April 5, 2013).

Section 1413 of the Affordable Care Act directs the Secretary to establish, subject to minimum requirements, a streamlined enrollment system for QHPs and all insurance affordability programs, which include the Medicaid and CHIP programs. The January 22, 2013 proposed rule noted that State Medicaid and CHIP agencies have a long history of offering application assistance programs through which application counselors have had a key role in promoting enrollment for low-income individuals seeking coverage, and we believe that making such assistance available for the Exchange will be critical to achieving a high rate of enrollment. The January 22, 2013 proposed rule also stated that section 1321(a) of the Affordable Care Act provides broad authority for the Secretary to establish standards and regulations to implement the statutory standards related to Exchanges, QHPs, and other standards of title I of the Affordable Care Act. Accordingly, the proposed rule proposed the establishment of the certified application counselor program for the Exchanges. The certified application counselor program makes available through the Exchange another type of assistance personnel to provide information to consumers and facilitate their enrollment in QHPs and insurance affordability programs. This will help streamline the enrollment system for QHPs and all insurance affordability programs.

As we proposed in the January 22, 2013 proposed rule, certified application counselors will provide information to individuals and employees about insurance affordability programs and coverage options; assist individuals and employees in applying for coverage in a QHP through the Exchange and in insurance affordability programs; and help facilitate enrollment in QHPs and insurance affordability programs. Unlike Navigators and non-Navigator assistance personnel to which § 155.215 applies—who have a duty to provide referrals to offices of health insurance consumer assistance or health insurance ombudsman established under section 2793 of the Public Health Service (PHS) Act, or any other appropriate State agency or agencies, and to assist an enrollee with a grievance, complaint, or question regarding their health plan, coverage, or a determination under such plan or coverage—certified application counselors are not expected to have the knowledge to make these types of referrals since their role is limited to providing enrollment assistance to consumers.

Certified application counselors can provide skilled application assistance in entities such as community health centers, health care providers, social service organizations, and local governmental entities that do not otherwise serve as Navigators. An organization that applies for and has been designated by the Exchange for this work must ensure that those staff members and volunteers it certifies as application counselors meet and comply with the application counselor certification and other requirements.

We do not expect Exchanges to fund certified application counselors or certified application counselor organizations. State Exchanges may use their section 1311(a) Establishment grants on costs incurred by the Exchange in establishing a training program for certified application counselors. State Exchanges may not, however, use section 1311(a) Establishment grant funds to pay certified application counselors or certified application counselor organizations. No section 1311(a) funding is available for certified application counselor training program costs in Federally-facilitated or State Partnership Exchanges, because the federal government is responsible for and states will not be involved in implementing the certified application counselor training program in those Exchanges. Nothing in the final rule prohibits certified application counselors from being funded through other sources, including applicable private, state, or federal programs.

The January 22, 2013 proposed rule proposed standards for certification of individuals as certified application counselors, including training requirements; disclosure to the Exchange and applicants of any financial or other relationships, either of the individual application counselor or of the sponsoring organization; and compliance with confidentiality requirements. We also proposed requiring certified application counselors to provide information with reasonable accommodations for people with disabilities when providing in-person assistance. The proposed certified application counselor standards were less extensive than the standards for Navigators and non-Navigator assistance programs proposed for certain Exchanges in the April 5, 2013 proposed rule, because certified application counselors will have a more limited role.

The April 5, 2013 proposed rule sought comments on whether the broader standards for Navigators and non-Navigator assistance programs to which § 155.215 applies should apply to certified application counselors. We have not applied all these standards to certified application counselors, but have applied to certified application counselors certain elements from §§ 155.210 and 155.215 that we believe are consistent with the goals of the certified application counselor program. For example, in § 155.225(c)(1), we have added the requirement that all certified application counselors must provide information to consumers about the full range of QHP options and insurance affordability programs for which they are eligible, as certain Navigators and non-Navigator assistance personnel are required to do under §§ 155.215(a)(1)(iii) and 155.215(a)(2)(iv). We have also added a training examination requirement to § 155.225(d)(1) that is similar to the one in § 155.215(b)(1)(iii).

1. Overview of Program Differences

Navigators, non-Navigator assistance personnel, and certified application counselors all will provide consumer-focused assistance with applications for and enrollment in QHPs and insurance affordability programs. Navigators and certified application counselors will perform these functions in all Exchanges.

The primary differences between the standards for Navigator and non-Navigator assistance programs and the standards for certified application counselors that we finalize in this rule relate to conflict of interest standards, eligibility requirements and prerequisites, and culturally and linguistically appropriate services (CLAS) and disability access standards. For example, this rule, at 45 CFR 155.225(d)(4) requires certified application counselors ''to act in the best interest of the applicants and enrollees assisted.'' In contrast, 45 CFR 155.210(e)(2), which applies to Navigators in all Exchanges, requires them to ''[p]rovide information and services in a fair, accurate and impartial manner.'' This rule extends the same requirement to non-Navigator assistance programs in State Partnership Exchanges, and to non-Navigator assistance programs in State Exchanges funded by federal Exchange Establishment grant funds. Navigators and non-Navigator assistance programs must provide culturally and linguistically appropriate services, but we are not requiring certified application counselors to comply with CLAS standards beyond any existing obligations they may have. We do, however, encourage certified application counselors to utilize the CLAS standards as a resource. 45 CFR 155.210(e)(5) and 155.205(d) and (e) require Navigators and non-Navigator assistance programs to provide meaningful access to people with disabilities, and we proposed a similar requirement for certified application counselors. We are modifying that provision to allow certified application counselors to provide information with reasonable accommodations for those with disabilities through referrals to Navigators, non-Navigator assistance personnel, and/or the Exchange call center.

Additionally, Navigators and non-Navigator assisters are both required to conduct consumer education and outreach activities under § 155.205(e) and § 155.210(e)(1). Certified application counselors will provide information about QHPs and insurance affordability programs as well as application and enrollment assistance but are not required to conduct outreach activities.

A broad range of entities are eligible to become Navigators, including community and consumer-focused nonprofits, tribes and tribal organizations, local human service agencies, and agents and brokers. A similar range of groups is likely to become non-Navigator assistance personnel, although that determination will be up to each Exchange. In all Exchange models, entities ineligible to become Navigators include health insurance issuers and their subsidiaries, issuers of stop loss insurance and their subsidiaries, associations that include members of or that lobby on behalf of the insurance industry, and entities that receive any consideration directly or indirectly from any health insurance issuer or issuer of stop loss insurance in connection with the enrollment of any individuals or employees in a QHP or non-QHP insurance product. This same ineligibility provision applies to non-Navigator assistance personnel in the Federally-facilitated Exchange, including State Partnership Exchanges, as well as non-Navigator assistance personnel in State Exchanges if funded by section 1311(a) Exchange Establishment grant funds. Certified application counselors are not barred from becoming a certified application counselor because of potential conflicts of interest, but must disclose potential conflicts of interest to applicants they seek to assist.

In this final rule, we amend what we proposed in the proposed rule, and provide that Exchanges may designate organizations to certify their staff members and volunteers who meet all of the requirements to be certified application counselors, rather than the Exchanges directly certifying individual application counselors. However, Exchanges may certify individual application counselors directly if they choose.

B. Legislative and Regulatory Overview

1. Consumer Assistance Tools and Programs of an Exchange (§ 155.205)

Section 1321(a)(1) of the Affordable Care Act directs the Secretary to issue regulations that set standards for meeting the requirements of title I of the Affordable Care Act, with respect to, among other things, the establishment and operation of Exchanges. Pursuant to this authority, the Secretary issued § 155.205(d) and (e) which establishes the consumer assistance function of the Exchange.[4] This section directs that the Exchange conduct outreach and education activities to educate consumers about the Exchange and encourage participation and that the Exchange have a consumer assistance function, including but not limited to a Navigator program as described in § 155.210.

2. Navigators and Non-Navigator Assistance Personnel (§§ 155.210 & 155.215)

Section 1311(d)(4)(K) and 1311(i) of the Affordable Care Act directs each Exchange to establish a program under which it awards grants to Navigators who will carry out the listed, required duties. A final rule implementing section 1311(d)(4)(K) and 1311(i) of the Affordable Care Act was published on March 27, 2012 (77 FR 18310) and is codified at 45 CFR 155.210.

Section 1311(i)(3) of the Affordable Care Act lists the duties Navigators must perform. Section 155.210(e), which implements this provision, provides that these duties include the following: Maintaining expertise in eligibility, enrollment, and program specifications; conducting public education activities to raise awareness about the Exchange; providing information and services in a fair, accurate, and impartial manner, including information that acknowledges other health programs such as Medicaid and CHIP; facilitating selection of a QHP; providing referrals for consumers with questions, complaints, or grievances to any

[4] Patient Protection and Affordable Care Act; Establishment of Exchanges and Qualified Health Plans; Exchange Standards for Employers, 77 FR 18310 (Mar. 27, 2012).

applicable office of health insurance consumer assistance or health insurance ombudsman established under section 2793 of the Public Health Service Act (PHS Act), or any other appropriate state agency or agencies; providing information in a culturally and linguistically appropriate manner, including to persons with limited English proficiency; and, ensuring accessibility and usability of Navigator tools and functions for persons with disabilities.

Section 1311(i)(4) directs the Secretary to establish standards for Navigators, including provisions to ensure that any entity selected as a Navigator is qualified, and licensed if appropriate, to engage in the Navigator activities required by the law and to avoid conflicts of interest. 45 CFR 155.210(b)(1), which implements this provision, directs each Exchange to ''develop and publicly disseminate . . . [a] set of standards, to be met by all entities and individuals awarded Navigator grants, designed to prevent, minimize and mitigate any conflicts of interest, financial or otherwise, that may exist for an entity or individuals to be awarded a Navigator grant and to ensure that all entities and individuals carrying out Navigator functions have appropriate integrity.'' Additionally, 45 CFR 155.210(c)(1)(iv) provides that a Navigator must not have a conflict of interest during its term as Navigator. 45 CFR 155.210(b)(2) directs Exchanges to develop and publicly disseminate a set of training standards, to be met by all entities and individuals carrying out Navigator functions, to ensure Navigator expertise in the needs of underserved and vulnerable populations, eligibility and enrollment rules and procedures, the range of QHP options and insurance affordability programs, and privacy and security requirements applicable to personally identifiable information. This regulation develops and disseminates standards under § 155.210(b)(1) and (2) for the Federally-facilitated Exchanges, including State Partnership Exchanges, and for non-Navigator assistance personnel in State Exchanges that are funded through federal Exchange Establishment grants. These standards could also be used by State Exchanges at their discretion for their Navigator programs and for any non-Navigator assistance programs not funded with 1311(a) Exchange Establishment grants.

45 CFR 155.210(c)(1)(iii) also implements section 1311(i)(4) of the Affordable Care Act, and directs that, in order to receive a Navigator grant, entities or individuals must meet any licensing, certification, or other standards prescribed by the state or Exchange. We amend this provision in this final rule to provide that it applies so long as such standards do not prevent the application of the provisions of title I of the Affordable Care Act.

Section 1311(i)(4) of the Affordable Care Act also specifies that under the standards established by the Secretary, Navigators shall not be health insurance issuers or receive any consideration directly or indirectly from any health insurance issuer in connection with the enrollment of any qualified individuals or employees of a qualified employer in QHPs. 45 CFR 155.210(d), which implements this provision, prohibits Navigators from being health insurance issuers. It also provides that Navigators must not receive any compensation directly or indirectly from health insurance issuers in connection with the enrollment of individuals or employees, whether that enrollment is in QHPs or in non-QHPs. Section 155.210(d) further clarifies that a Navigator must not be a subsidiary of a health insurance issuer, or be an association that includes members of or lobbies on behalf of the insurance industry. In this final rule we amend Section 155.210(d) to include a prohibition on most of these same relationships with stop loss insurance issuers.

Section 1311(i)(5) of the Affordable Care Act directs the Secretary to develop standards to ensure that information made available by Navigators is fair, accurate, and impartial.

45 CFR 155.210(c)(2) directs the Exchange to select at least two different types of entities as Navigators, one of which must be a community and consumer-focused non-profit group.

45 CFR 155.205(d) directs Exchanges to have a consumer assistance function that meets the accessibility standards set forth in § 155.205(c). This consumer assistance function includes the Navigator program provided for by section 1311(i) of the Affordable Care Act and 45 CFR 155.210, but is not limited to the Navigator program. 45 CFR 155.205(e) directs Exchanges to conduct outreach and education activities that also meet the accessibility standards in § 155.205(c), and to educate consumers about the Exchange and insurance affordability programs to encourage participation. The accessibility standards for § 155.205(d) and (e), as detailed in § 155.205(c), include a requirement that applicants and enrollees be provided information in plain language and in a manner that is accessible and timely for persons with disabilities and individuals with limited English proficiency. We are finalizing here portions of the January 22, 2013 proposed rule regarding training requirements under § 155.205(d),[5] and amend § 155.205(d) to require both Navigators and non-Navigator assistance personnel to be trained regarding QHP options, insurance affordability programs, eligibility, and benefits rules and regulations governing all insurance affordability programs operated in the state as implemented in the state, prior to providing consumer assistance.

3. Certified Application Counselors

Section 1321(a)(1) of the Affordable Care Act directs and authorizes the Secretary to issue regulations setting standards for meeting the requirements under title I of the Affordable Care Act, with respect to, among other things, the establishment and operation of Exchanges. Pursuant to this authority, the Secretary is issuing § 155.225, which establishes the certified application counselor program as a consumer assistance function of the Exchange separate from and in addition to the functions described in §§ 155.205(d) and (e), 155.210, and 155.215. Section 155.225 specifies that certified application counselors will provide information to consumers about health coverage options and assist them with applying for and enrolling in QHPs and insurance affordability programs.

C. Overview of Final Rule

1. Consumer Assistance Tools and Programs of an Exchange (§ 155.205)

This final regulation amends § 155.205(d) by separating it into subparagraphs (d)(1) and (d)(2), and clarifying in new subparagraph (d)(1) that, prior to providing the consumer assistance specified in paragraph (d), an individual must be trained regarding QHP options, insurance affordability programs, eligibility, and benefits rules and regulations governing all insurance affordability programs operated in the state, as implemented in the state. New subparagraph (d)(2) specifies that the Exchange must provide referrals to any applicable office of health insurance consumer assistance or health insurance ombudsman established under section 2793 of the PHS Act, or any other appropriate State agency or agencies, for any enrollee with a grievance, complaint, or question regarding their health plan, coverage, or a

[5] See the proposed rule on Essential Health Benefits in Alternative Benefit Plans, Eligibility Notices, Fair Hearing and Appeal Processes for Medicaid and Exchange Eligibility Appeals and Other Provisions Related to Eligibility and Enrollment for Exchanges, Medicaid and CHIP, and Medicaid Premiums and Cost Sharing, 78 FR 4594, 4710 (Jan. 22, 2013).

determination under such plan or coverage.

2. Navigators and Non-Navigator Assistance Personnel (§§ 155.210 & 155.215)

This final regulation amends § 155.210(c)(1)(iii) to clarify that any Navigator licensing, certification, or other standards prescribed by the state or Exchange must not prevent the application of the provisions of title I of the Affordable Care Act. In addition, the final rule amends § 155.210(d), which provides, among other things, that a Navigator cannot be an issuer nor receive compensation from an issuer related to enrollment in a QHP or non-QHP, to provide that a Navigator cannot be an issuer of or a subsidiary of an issuer of stop loss insurance and cannot receive any consideration, directly or indirectly, from an issuer of stop loss insurance in connection with the enrollment of any individuals or employees in a QHP or a non-QHP. These amendments to § 155.210 are applicable to Navigators in all Exchanges, including Federally-facilitated Exchanges, State Partnership Exchanges, and State Exchanges.

This final rule also adds a new provision at 45 CFR 155.215 that establishes conflict of interest, training, and accessibility standards applicable to Navigators and non-Navigator assistance personnel in Federally-facilitated Exchanges, including State Partnership Exchanges. These standards also apply to non-Navigator assistance personnel in State Exchanges that are funded through federal section 1311(a) Exchange Establishment grants. For the remainder of this preamble, we will refer to these types of entities collectively as ''Navigators and non-Navigator assistance personnel to which § 155.215 applies.''

Section 155.215(a) provides details on the conflict of interest standards applicable to the Navigators and non-Navigator assistance personnel to which § 155.215 applies. Section 155.215(a)(2)(i) establishes that the non-Navigator assistance personnel to which § 155.215 applies must comply with the same set of conflict of interest prohibitions that apply to all Navigators under § 155.210(d), as well as the same fair and impartial standard that applies to all Navigators under § 155.210(e)(2). Section 155.215(b) sets forth standards related to training, certification, and recertification for the Navigators and non-Navigator assistance personnel to which § 155.215 applies. These standards include details about the requirement to be certified, to register and receive HHS-approved training, the content required for training, and the requirement to receive a passing score on all approved certification examinations after training. For non-Navigator assistance programs in State Exchanges to which § 155.215 applies, the State Exchange may use the Federally-facilitated Exchange training or may use training developed by the State Exchange and approved by HHS.

Section 155.215(c) and (d) establishes standards for the Navigators and non-Navigator assistance personnel to which § 155.215 applies, to ensure meaningful access to their services by individuals with limited English proficiency and people with disabilities. The standards we are finalizing at 155.215(c) and (d) should be read together with other applicable standards issued by the Secretary related to ensuring meaningful access by individuals with limited English proficiency and people with disabilities.

State Exchanges will not be required to use the standards being finalized in § 155.215 for their Navigators, or for non-Navigator assistance programs not funded through section 1311(a) Exchange Establishment grants. However, we believe that State Exchanges may find the federal standards to be useful models, and we encourage them to draw upon these standards as they develop and disseminate conflict of interest and training standards for Navigators pursuant to § 155.210(b), or when establishing standards for any non-Navigator assistance program that is established by the State Exchange and is not funded by federal 1311(a) Exchange Establishment grants. This final rule establishes different conflict of interest and HHS-approved training standards for certified application counselors. As discussed elsewhere in this final rule, unlike Navigators, which will receive Exchange grants as set forth in section 1311(i) of the Affordable Care Act, and non-Navigator assistance personnel, which we expect will be funded by all Consumer Partnership Exchanges and some State Exchanges, we do not expect Exchanges to pay designated organizations to certify application counselors or to pay individual certified application counselors for the enrollment assistance they will provide to consumers.

3. Certified Application Counselors (§ 155.225)

In finalizing § 155.225, we establish certified application counselors as another type of assistance personnel available to provide information to consumers and facilitate their enrollment in QHPs and insurance affordability programs, such as premium tax credits and cost sharing reductions, Medicaid, and CHIP, for which they are eligible. Every Exchange will have a certified application counselor program, as provided in § 155.225(a). An Exchange may designate organizations, including organizations designated by a state Medicaid or CHIP agency, that meet the requirements and standards in § 155.225 to certify the organization's staff members and volunteers to serve as certified application counselors. As proposed in the proposed rule, an Exchange may opt to certify these organizations' staff members and volunteers directly if those staff members and volunteers meet the certification standards, rather than designating organizations that may certify their staff members and volunteers. An Exchange may also opt both to designate organizations and to certify directly an organization's individual certified application counselors. We intend that the Federally-facilitated Exchanges including State Partnership Exchanges will choose to designate organizations to certify the organization's staff members and volunteers as application counselors. We expect to publish guidance to establish a process for designating organizations in Federally-facilitated Exchanges, including State Partnership Exchanges, to certify their staff members and volunteers as application counselors.

Section 155.225(c) describes the duties of certified application counselors. These duties include providing information about the coverage options available to consumers through the Exchange, and assisting consumers with selecting and applying for coverage from QHPs and enrollment in insurance affordability programs.

Section 155.225(d) outlines the standards that must be met by any individual seeking to be certified as an application counselor. These standards include: Completing Exchange approved training and examinations; disclosing potential conflicts of interest; complying with applicable privacy and security standards; agreeing to act in the best interest of applicants and enrollees assisted; providing information in a manner that is accessible to persons with disabilities; and entering into an application counselor agreement with their designated organization. In § 155.225(d)(5), the final rule clarifies that certified application counselors may satisfy the requirement that they provide information in a manner that is accessible to individuals with disabilities either directly or through referral to Navigators, non-Navigator

assistance personnel, and/or the Exchange call center.

Section 155.225(e) directs the Exchange to establish procedures to withdraw its designation from noncompliant designated organizations, or, if an Exchange directly certifies individual application counselors, from noncompliant application counselors. It also directs designated organizations to establish procedures to withdraw certification from their noncompliant certified application counselors.

Section 155.225(f) directs designated organizations to establish procedures to ensure that applicants are informed of the functions of certified application counselors, as well as procedures to ensure that applicants provide authorization for the disclosure of applicant information to the application counselor. Such authorizations may be revoked by the applicant at any time.

Finally, § 155.225(g) prohibits certified designated organizations and their certified application counselors from imposing any charge on applicants or for the certified application counseling services they provide.

II. Provisions of the Proposed Rule and Analysis and Responses to Public Comments

A. General Comments

In response to both the January 22, 2013 and the April 5, 2013 proposed rules, we received the following comments that have general applicability to our rulemaking process.

Comment: Several commenters asked us to release the final certified application counselor rule as soon as possible. One commenter suggested that we consolidate pending rules about consumer assistance programs and standards into one set of rules to provide greater clarity about which entities can perform which functions, and which standards apply to each type of assister.

Response: We agree that addressing the standards governing Navigators, non-Navigator assistance personnel, and certified application counselors in the same final rule provides greater clarity, and we have adopted this recommendation. We are therefore finalizing the amendments to §§ 155.205(d) and 155.210, and newly proposed §§ 155.215 and 155.225, together in this final rule.

B. Consumer Assistance Tools and Programs of an Exchange (§ 155.205)

Proposed amendments to § 155.205(d) were published as part of the January 22, 2013 proposed rule (78 FR 4594).

1. General Comments

We received the following general comments on Navigator, non-Navigator assistance, and certified application counselor programs under this provision:

Comment: A few commenters requested clarification regarding the distinctions among Navigators, non-Navigator assistance personnel (which includes what have sometimes been referred to as ''in-person assistance personnel''), and certified application counselors with regard to topics such as funding, training requirements, and scope of responsibilities.

Response: Navigators, non-Navigator assistance personnel, and certified application counselors all will provide consumer-focused assistance with applications for and enrollment in QHPs and insurance affordability programs. In addition, certified application counselors cannot charge consumers for their services, as provided in this final rule. Similarly, HHS does not believe that it would be consistent with the purpose of the Navigator program or the consumer assistance, education, and outreach functions under § 155.205(d) and (e) for Navigators or non-Navigator assistance personnel to charge consumers for their services.

The primary differences between the existing and proposed standards for Navigators and non-Navigator assistance programs, and the proposed standards for certifying certified application counselors in all Exchanges, which we finalize in this rulemaking, relate to the requirement that Navigators and non-Navigator assistance personnel perform public outreach and comply with detailed conflict of interest standards, eligibility requirements and prerequisites, as well as CLAS and disability access standards.

Comment: A number of commenters requested that HHS clarify in the regulations that the nondiscrimination provisions applicable to the Exchanges apply to all consumer assistance programs, including Navigators, non-Navigator assistance personnel, and certified application counselors.

Response: Exchanges are expected to comply with the nondiscrimination provisions in § 155.120(c) when carrying out the requirements of 45 CFR part 155. We note that HHS recently proposed to correct the inadvertent omission of the nondiscrimination requirements of § 155.120(c) from § 155.105(f), which lists the regulatory provisions that apply in a Federally-facilitated Exchange (see 78 FR 37032 (June 19, 2013)). Each of the assistance programs addressed in this rulemaking, including Navigators, the consumer assistance functions authorized under § 155.205(d) and (e), and the certified application counselor program, are required functions of the Exchange under 45 CFR part 155. Therefore, in order for an Exchange to comply with these nondiscrimination provisions, it must ensure that its Navigators, any activities authorized under 155.205(d) and (e), including the operations of non-Navigator assistance personnel, organizations designated to certify staff or volunteers, and certified application counselors comply with § 155.120(c). Additionally, the preamble to the final rule publishing § 155.120(c) clarified that the nondiscrimination provisions apply not only to the Exchange itself but also to Exchange contractors and all Exchange activities, including but not limited to marketing, outreach, and enrollment. (See 77 FR at 18319–18320.) The preamble to final § 155.210 also clarified that Navigators, as third parties under agreement with the Exchange, are subject to the Exchange's nondiscrimination requirements under § 155.120(c). (See 77 FR at 18332.) Navigators, non-Navigator assistance personnel authorized under § 155.205(d) and (e), organizations designated to certify their staff members and volunteers as application counselors, and certified application counselors certified directly by the Exchange perform functions of the Exchange and will be under agreement with the Exchange, and would therefore be subject to § 155.120(c) in all Exchanges if the amendments to § 155.105(f) are finalized as proposed.

Comment: One commenter explained that it is critical that no barriers are imposed that would disrupt the enrollment assistance relationships that Indian health providers have with consumers, and urged us not to create standards so onerous that they cannot be met by volunteers.

Response: Nothing in this final rulemaking requires Indian health providers to change their current relationships with the consumers they serve. This regulation does not require them to be trained or registered as non-Navigator assistance personnel, Navigators, or certified application counselors in order to continue their existing work.

Comment: Some commenters observed that general rules regarding non-discrimination are often translated into a requirement to serve anyone who seeks the service. These commenters expressed the opinion that, because the Indian Health Service, tribes and tribal organizations, and urban Indian organizations (I/T/U) often serve only

American Indians and Alaska Natives (AI/AN), they cannot agree to such a requirement. The commenters suggested that the rules should clearly address this issue so that it does not become a barrier to participation by employees and volunteers of I/T/U.

Response: Indian health programs and benefits are generally not available to the public because they were established to serve AI/AN. However, Exchange Navigator, non-Navigator assistance, and certified application counselor services are not Indian health programs or benefits authorized by the Indian Health Care Improvement Act, so the same limitation does not apply to them. Accordingly, if I/T/U health care programs wish to become Navigators, non-Navigator assistance personnel, or certified application counselors, they must provide those services consistent with the requirements we have established for those programs, including nondiscrimination requirements. Additionally, to the extent that an I/T/U receives any federal funds to support provision of Navigator, non-Navigator assistance, or certified application counselor services, it is subject to certain federal nondiscrimination statutes, including but not limited to Title VI of the Civil Rights Act of 1964.

As we stated in the preamble to the proposed rule, while Navigators and non-Navigator assistance personnel should have the ability to help any individual who presents him or herself for assistance, there may be some instances where a Navigator or non-Navigator assistance personnel lacks the immediate capacity to help an individual. In such cases, the Navigator or non-Navigator assistance personnel should be capable of providing assistance in a timely manner but must also refer consumers seeking assistance to other Exchange resources, such as the toll-free Exchange call center, or to another Navigator or non-Navigator assistance personnel in the same Exchange who might have better capacity to serve that individual more effectively. The same principle would apply to certified application counselor services. Indian health providers also have specific independent authority under section 404 of the Indian Health Care Improvement Act to assist AI/ANs in enrolling in health benefits coverage, and may provide outreach and education in the provision of such assistance.

Comment: A number of commenters requested that all individuals providing consumer assistance be required to provide equal access to individuals with limited English proficiency and individuals with disabilities.

Response: Sections 155.205(c) and 155.210(e)(5) require Navigators and non-Navigator assistance personnel to provide applicants and enrollees with information that is accessible to individuals with disabilities and individuals with limited English proficiency. Section 155.215(c) and (d) provides standards for providing equal access to individuals with limited English proficiency and individuals with disabilities. These standards will apply to Navigators and non-Navigator assistance personnel in all Federally-facilitated Exchanges, including State Partnership Exchanges, and to non-Navigator assistance personnel in State Exchanges that are funded with 1311(a) Exchange Establishment grants. Certified application counselors perform a separate Exchange function, authorized by § 155.225, and are required to provide information in a manner that is accessible to individuals with disabilities, either directly or through appropriate referral to a Navigator, non-Navigator assistance personnel authorized under § 155.205(d) and (e), and/or the Exchange's call center.

Comment: One commenter asked that consumer assistance be available to those who wish to apply via paper application rather than electronically.

Response: While we strongly encourage all types of assistance personnel to help consumers apply for and enroll in coverage electronically, we also expect all types of assistance personnel to help consumers who wish to apply on paper.

Comment: Several commenters asked HHS to encourage states to have a single training program for all Exchange consumer assistance programs, with one commenter recommending that HHS clarify that states may develop a single set of training materials for Navigators, non-Navigator assistance personnel, and certified application counselors, as stated in the preamble to the proposed certified application counselor rule.

Response: Section 155.215(b)(2) includes training standards that apply to Navigators and non-Navigator assistance personnel in Federally Facilitated Exchanges, including State Partnership Exchanges, and to non-Navigator assistance programs and personnel in State Exchanges that are funded through federal section 1311(a) Exchange Establishment grants. These standards do not apply to certified application counselors. State Exchanges may, at their option, base their own training programs for Navigators, for other kinds of non-Navigator assistance personnel and for certified application counselors on these standards, or they may adopt the Federal standards and training materials. State Exchanges may use their Navigator training for non-Navigator personnel funded through 1311(a) grants if the training meets the standards in the final rule. State Exchanges are encouraged to have the same training across all of their programs.

2. Comments Related to the Amendments to § 155.205(d)

Comment: Several commenters expressed general support for our proposed amendments to § 155.205(d), including support for our recognition that consumer assistance functions must meet certain standards. One commenter asked that HHS issue regulations specifying the standards and duties of individuals carrying out the functions described at § 155.205(d).

Response: In § 155.215, we establish standards and duties for certain Navigators and non-Navigator assistance personnel.

Comment: Many commenters asked that the training requirements under § 155.205(d) be strengthened and that specific topics be required, including advance payments of premium tax credits (APTCs), cost-sharing subsidies (CSRs), comparing qualified health plan and pediatric dental benefits and costs, how to provide accessible services to individuals with disabilities and culturally and linguistically appropriate services, documentation requirements for immigrants, reporting changes in consumer or enrollee circumstances, qualifying for a special enrollment period, complaint and referral processes, the tax reconciliation process, how to refer individuals to services and programs not offered through the Exchange that help consumers afford the cost of their medical expenses, and information about programs authorized under the Ryan White Comprehensive AIDS Resources Emergency (CARE) Act and subsequent reauthorizations of that Act (Ryan White programs). A few commenters suggested that non-Navigator assistance personnel be trained on how to address the concerns of mixed-status immigrant families to encourage enrollment by eligible members of those families. One commenter suggested that we require preference to be given to any individual who is culturally and linguistically competent, including individuals with bilingual language skills and/or bicultural background or experience. One recommended that assistance

personnel under § 155.205(d) receive both initial and ongoing training.

Response: Section 155.215 establishes training standards for Navigators and non-Navigator assistance personnel in certain Exchanges. The training module content requirements established in § 155.215(b) cover a broad range of subjects, and we expect that training developed consistent with those requirements will encompass many of the specific training content suggestions made by commenters, including eligibility and referral services. We clarify here that by ''insurance affordability programs,'' we refer to the definition of ''insurance affordability programs'' at 42 CFR 435.4 (as amended at 77 FR 17203 (Mar. 23, 2012)), which includes Medicaid, CHIP, and QHPs offered through the Exchange together with advance payments of the premium tax credit and/or cost-sharing reductions. However, we encourage knowledgeable assistance personnel to help consumers access other programs, such as drug assistance programs and Ryan White programs.

Comment: Most commenters who addressed § 155.205(d)(2), which requires referrals to consumer assistance programs when available and appropriate, expressed support for the proposed provision. Some additionally noted that the Exchange must not consider organizations to be ''available and appropriate'' unless the organization has indicated willingness and capacity to provide such assistance to consumers.

Response: To clarify the kinds of available and appropriate entities to which we expect Navigators and non-Navigator assistance personnel to refer consumers, we amend the final § 155.205(d)(2) to reflect the similar referral language in the Navigator final rule at § 155.210(e)(4). This amendment clarifies that Consumer Assistance Programs established under section 2793 of the Public Health Service Act are an available and appropriate resource in many states to which Navigators, non-Navigator assistance programs, and certified application counselors can refer consumers for additional assistance. Because Navigator programs are one example of a program authorized under § 155.205(d), we also believe this change will help streamline the requirements. Moreover, we expect that the entities specified in this provision are able and willing to provide assistance and accept referrals.

3. Summary of Changes

We are finalizing the proposed amendments to § 155.205 of the proposed rule, with one modification. We replaced the referral language in paragraph (d)(2) with similar language from § 155.210(e)(4).

C. Navigators and Non-Navigator Assistance Personnel (§§ 155.210 & 155.215)

The provisions and amendments discussed in this section were proposed in the April 5, 2013 proposed rule (78 FR 20581).

1. Navigator Program Standards (§ 155.210)

a. Entities and Individuals Eligible To Be a Navigator (§ 155.210(c)(1)(iii))

Section 155.210(c)(1)(iii), implementing section 1311(i)(4) of the Affordable Care Act, directs that, in order to receive a Navigator grant, an entity or individual must ''meet any licensing, certification or other standards prescribed by the state or Exchange, if applicable.'' Section 1321(d) of the Affordable Care Act provides that nothing in title I of the Affordable Care Act shall be construed to preempt any state laws that do not prevent the application of the provisions of title I of the Affordable Care Act.

We proposed to amend § 155.210(c)(1)(iii) to clarify that, consistent with Affordable Care Act section 1321(d), any Navigator licensing, certification, or other standards prescribed by the state or Exchange should not prevent the application of the provisions of title I of the Affordable Care Act. For example, as HHS has previously advised (see 77 FR 18310, 18331 through 18332), a requirement by a state or an Exchange that Navigators be agents and brokers or obtain errors and omissions coverage would prevent the application of the requirement at § 155.210(c)(2) that at least two types of entities must serve as Navigators, because it would mean that only agents or brokers could be Navigators. In addition, holding an agent or broker license is neither necessary, nor by itself sufficient, to perform the duties of a Navigator, as these licenses generally do not address areas in which Navigators need expertise, including the public coverage options that will be available to some consumers.

Comment: Generally, commenters supported the proposed amendment to 45 CFR 155.210(c)(1)(iii). Some commenters requested additional guidance on what types of state requirements would and would not be preempted under this provision; for example, whether a state requirement that Navigators obtain a surety bond would be preempted by this provision. Other commenters requested we extend this provision to apply to non-Navigator assistance personnel as well.

Response: Determining under § 155.210(c)(1)(iii) whether a particular state requirement would prevent the application of the provisions of title I of the Affordable Care Act would require an analysis of the specific facts and circumstances. We are monitoring relevant state legislation and will work with states to help ensure that state legislation does not prevent the application of a provision of title I of the Affordable Care Act and the federal regulations implementing it. We are adopting the proposed amendment without modification. While we are not including parallel provisions applicable to non-Navigator assistance personnel and certified application counselors in this final rule, we note that Affordable Care Act section 1321(d) also applies to those programs.

Comment: Some commenters raised concerns about the impact of Navigator and non-Navigator assistance programs on the business of licensed agents and brokers. Some commenters believed the requirements for these programs would prevent agents and brokers from participating.

Response: Licensed agents or brokers are eligible to serve as Navigators or non-Navigator assistance personnel as long as they meet the applicable requirements; however, during their term as Navigators or non-Navigator assistance personnel, they would not be permitted to receive any direct or indirect consideration from a health insurance or stop loss insurance issuer in connection with the enrollment of any individuals or employees in QHPs or non-QHPs. In addition, subject to applicable state law, agents and brokers are not otherwise prohibited from assisting consumers with enrollment both inside and outside of the Exchanges. We expect that agents and brokers will continue to play an important role in educating consumers about their health coverage options and, unlike Navigators and non-Navigator assistance personnel, will also be able to sell consumers health insurance coverage. In addition, many states are expecting that small businesses seeking enrollment assistance in the Small Business Health Options (SHOP) Exchange will continue to use agents and brokers as their primary resource, subject to applicable state law.

b. Prohibition on Navigator Conduct (§ 155.210(d))

Section 155.210(d) states that a Navigator may not be a health insurance

issuer, a subsidiary of a health insurance issuer, an association that includes members of or lobbies on behalf of the insurance industry, or receive any consideration, directly or indirectly, from any health insurance issuer in connection with the enrollment of any individuals or employees in a QHP or non-QHP. We proposed to amend section 155.210(d) to provide that a Navigator must also not be an issuer of stop loss insurance, or a subsidiary of an issuer of stop loss insurance, and must not receive any consideration, directly or indirectly, from any issuer of stop loss insurance in connection with the enrollment of individuals or employees in a QHP or non-QHP.

Section 1311(i) of the Affordable Care Act requires a Navigator to distribute fair and impartial information concerning enrollment in QHPs, to be free from conflicts of interest, and directs that standards be established to ensure that those requirements are met. Existing regulations at 45 CFR 155.210(c)(1)(iv) and (e)(2) also implement those requirements. Taken together, these provisions indicate that, with respect to the assistance offered by a Navigator to a small employer, a Navigator should not have a personal interest in whether a small employer chooses to self-insure its employee health plan, or chooses to enroll in fully-insured coverage inside or outside the Exchange.

In the proposed rule, we explained that these amendments would help ensure that Navigators provide any small employer that requests help from a Navigator with information and services in a fair, accurate, and impartial manner, as such information would facilitate small employers' selection of QHPs in Small Business Health Options (SHOP) Exchanges, if they choose to enroll in such coverage. We solicited public comments on this proposal.

Comment: CMS received comments supporting the addition of stop loss insurance issuers and their subsidiaries to the provisions at 45 CFR 155.210(d)(1), (2), and (4). One commenter requested clarification regarding the definition of stop loss insurance.

Response: The proposed rule did not define stop loss insurance or stop loss insurance issuer and we are not adding a definition of stop loss insurance or stop loss insurance issuer to the final rule. The proposed rule cross-references the description of stop loss insurance in a Request for Information (RFI) published by the Departments of HHS, Labor, and the Treasury on May 1, 2012. *See* 77 FR 25788. That RFI describes stop loss insurance as designed to protect against health insurance claims that are catastrophic or unpredictable in nature, and as providing coverage to self-insured group health plans once a certain level of risk has been absorbed by the plan. For purposes of this final rule, we continue to interpret the terms stop loss insurance and stop loss insurance issuer as having meanings consistent with the discussion in the RFI.

Comment: A few commenters requested guidance on whether selling other insurance products, such as Medicare health plans, accident plans, cancer-only or other dread disease plans, hospital expense, or critical illness plans, would be a prohibited conflict of interest making someone ineligible to be a Navigator or non-Navigator assistance personnel.

Response: We are adopting the proposed § 155.215(a)(2)(i), which extends to certain non-Navigator assistance personnel the provisions of 45 CFR 155.210(d). As a result, non-Navigator assistance personnel subject to § 155.215, like Navigators, are prohibited from having the relationships with health insurance issuers or stop loss issuers described at § 155.210(d).

45 CFR 155.20 and 144.103, implementing section 2791(b)(2) of the Public Health Service Act (PHS Act), defines a health insurance issuer as ''. . . an insurance company, insurance service, or insurance organization (including an HMO) that is required to be licensed to engage in the business of insurance in a State and that is subject to State law that regulates insurance (within the meaning of section 514(b)(2) of ERISA). Such term does not include a group health plan.'' [6] Consistent with this definition, in this context, whether an entity is a health insurance issuer is generally determined according to state law.

If an entity or one of its corporate affiliates is required to be licensed to engage in the business of insurance in a state and is subject to state law that regulates insurance, it might be a health insurance issuer or stop loss issuer or have a relationship with a health insurance issuer or stop loss issuer that would prohibit it from becoming non-Navigator assistance personnel. Within the Federally-facilitated Exchanges, CMS will evaluate specific corporate structures on a case by case basis.

Comment: Commenters requested clarification that a health care provider's contract with a health plan (including a QHP) to provide health services as part of the plan network would not preclude the provider from being eligible to be a Navigator or non-Navigator assistance personnel. Some commenters noted that this relationship should still be disclosed as a non-prohibited conflict of interest. Commenters also requested clarification that a grant offered by a plan for a restricted purpose, such as in support of providing services to the uninsured or to help finance a program or capital project, does not constitute consideration directly or indirectly for enrollment of individuals into a QHP or non-QHP. Commenters also noted that some health centers may receive federal grants under section 330 of the Public Health Service Act that can be used to plan and develop a managed care network plan.

Response: We are finalizing without change the proposed amendment to 45 CFR 155.210(d)(4) and the proposed provision at § 155.215(a)(2)(i). We interpret the prohibition on receiving direct or indirect consideration from a health insurance or stop loss insurance issuer to apply to consideration received for enrolling individuals or employees in health insurance plans or stop loss insurance inside or outside the Exchanges; it does not apply to consideration received by a provider to support specific activities, such as the provision of medical services, that are not connected to the enrollment of individuals or employees in QHPs. The preamble to the Exchange Final Rule explains that we interpret ''consideration'' to include financial compensation, including monetary or in-kind compensation of any type, including grants, as well as any other types of influence a health insurance or stop loss insurance issuer could use, including but not limited to things such as gifts and free travel, which may result in steering individuals to particular QHPs offered in the Exchange or plans outside of the Exchange (77 FR 18333). It is possible that a provider would be required to disclose to the Exchange and consumers receiving application assistance from staff serving as Navigators or non-Navigator assistance personnel, the fact that it receives issuer funds that are unrelated to the enrollment of individuals or employees into health insurance plans, but this would not be a bar to serving as a Navigator or non-Navigator assistance personnel. Such disclosure would not

[6] *See* 26 CFR 54.9801–2, 29 CFR 2590.701–2, and 45 CFR 144.103, which states that the term ''health insurance issuer'' or ''issuer'' means ''an insurance company, insurance service, or insurance organization (including an HMO) that is required to be licensed to engage in the business of insurance in a State and that is subject to State law that regulates insurance (within the meaning of section 514(b)(2) of ERISA). The term does not include a group health plan.''

include proprietary information about reimbursements received from issuers.

Similarly, an entity that receives a grant or other funding from a health insurance or stop loss insurance issuer would not be prohibited from serving as a Navigator or non-Navigator assistance personnel unless such grant or funding is related to the enrollment of individuals or employees in a QHP or non-QHP. However, the entity would need to disclose the receipt of the grant or funding from the issuer to the Exchange and consumers receiving application assistance.

With respect to health centers that may receive federal grants under section 330 of the Public Health Service Act that can be used to plan and develop a managed care network plan, as stated earlier, whether or not an entity is or is not a health insurance issuer is determined by state law. If these health centers would not be required to be licensed to engage in the business of insurance in a state or subject to state law that regulates insurance, then the health center would not be ineligible to serve as a Navigator or non-Navigator assistance personnel, assuming all other eligibility criteria are also satisfied.

Comment: Some commenters requested guidance regarding the situation where a large organization, such as a hospital, has some but not all employees serving as Navigators or non-Navigator assistance personnel. In this situation, commenters requested clarification about whether all employees of the organization need to be free of prohibited conflicts of interest, or whether only the employees providing Navigator or non-Navigator assistance personnel services need to be free of prohibited conflicts of interest.

Response: Only the Navigator grantee and the staff members and volunteers who work on the Navigator program or perform Navigator services under the grant are required to be free of prohibited conflicts of interest. Therefore, staff or employees of a Navigator grantee who are in no way involved in the Navigator program are not required to comply with the conflict of interest standards that are applicable to the Navigator program staff.

2. Summary of Changes

The amendments to § 155.210(d) are being finalized as proposed, with no changes. 2. Standards applicable to Navigators and non-Navigator Assistance Personnel carrying out consumer assistance functions under § 155.205(d) and (e) and 155.210 in a Federally-facilitated Exchange and to non-Navigator Assistance Personnel funded through an Exchange Establishment Grant (§ 155.215).

a. Conflict-of-Interest Standards for Navigators (§ 155.215(a)(1)) and for Non-Navigator Assistance Personnel Carrying Out Consumer Assistance Functions Under § 155.205(d) and (e) (§ 155.215(a)(2))

Section 1311(i)(4) of the Affordable Care Act directs the Secretary to establish standards for Navigators, including provisions to avoid conflicts of interest. Section 155.210(b)(1) directs all Exchanges to develop and publicly disseminate conflict-of-interest standards for Navigators. The conflict-of-interest standards proposed in § 155.215(a)(1) were intended to apply to all Navigators in Federally-facilitated Exchanges, including State Partnership Exchanges.

Section 155.210(c)(1)(iv) prohibits Navigators from having conflicts of interest during their terms as Navigators. We have explained that having a conflict of interest means having a private or personal interest sufficient to influence, or appear to influence, the objective exercise of a Navigator's official duties (77 FR 18330 through 18331). In addition, § 155.210(d) directs that a Navigator must not have certain relationships with insurance issuers or the insurance industry. Because any individual or entity with the conflicts of interest listed at § 155.210(d) would be barred from participating as a Navigator, we first proposed in § 155.215(a)(1)(i) that a Navigator entity, including a Navigator grant applicant, must submit to the Exchange a written attestation that the Navigator entity and its staff do not have any of these prohibited conflicts of interest. This disclosure to the Exchange will help ensure that Navigators comply with the prohibitions on Navigator conduct set forth in § 155.210(d), and that individuals and entities who are ineligible under § 155.210(d) do not apply to the Exchange for grants to serve as Navigators. We solicited public comments on the proposal to require Navigators to submit an attestation regarding eligibility.

At § 155.215(a)(1)(ii), we proposed to direct that all Navigator grantees submit to the Exchange a written plan to remain free of conflicts of interest during their term as a Navigator. This plan should ensure that the Navigator grantee, and all those individuals who serve as Navigators under the direction of the Navigator grantee, would fully comply with the prohibitions in § 155.210(d), and all other conflict-of-interest requirements, as described below, throughout the term of a Navigator grant. We stated that this would be particularly important for those Navigator grantees that may have a changing workforce, and might thus utilize new or different staff or employees during the term of a Navigator grant. We solicited public comments on the proposed requirement to submit a written plan to remain free of conflicts of interest, including comments on the form of and content for the plan.

At § 155.215(a)(1)(iii), we proposed to direct that all Navigators, including the Navigator's staff, provide information to consumers about the full range of QHP options and insurance affordability programs, such as premium tax credits and cost sharing reductions and Medicaid and CHIP, for which they are eligible. We stated that this proposed requirement would help ensure that consumers receive all of the information they need to make an informed enrollment decision, and that the information they receive is fair and impartial, as required by § 155.210(e)(2).

Lastly, under the proposed conflict-of-interest standards for Navigators, we proposed a requirement at § 155.215(a)(1)(iv) that certain conflicts of interest, while not a bar to serving as a Navigator, should be disclosed to the Exchange and to each consumer receiving application assistance (which includes pre-enrollment and post-enrollment services, but does not include outreach and education assistance), both by the Navigator individual and the entity. In developing the conflict-of-interest standards in the proposed rule, we were mindful that every Navigator must ''[p]rovide information and services in a fair, accurate and impartial manner'' under § 155.210(e)(2). We were also mindful that each Exchange must develop standards ''designed to prevent, minimize and mitigate any conflicts of interest, financial or otherwise, that may exist for an entity or individuals to be awarded a Navigator grant and to ensure that all entities and individuals carrying out Navigator functions have appropriate integrity,'' as we provided in § 155.210(b)(1). The requirement that an Exchange develop standards to minimize and mitigate conflicts of interests suggests that some conflicts of interest would not be absolute bars to service as a Navigator, provided that the conflict of interest would not ultimately prevent the entity or individual from providing information and services in a fair, accurate, and impartial manner. Striking this balance will allow for a robust pool of Navigators while ensuring all Navigators have the

integrity, fairness, and impartiality to carry out their duties appropriately.

In order to mitigate conflicts of interest, we proposed three types of information that Navigators, including Navigator staff, must disclose to the Exchange and to their consumers. First, Navigators would be required to disclose to the Exchange and to each consumer who receives application assistance from the Navigator entity or individual, any lines of insurance business, other than health insurance or stop loss insurance, which the Navigator intends to sell while serving as a Navigator. Since Navigators must not sell health insurance or, as we also proposed, stop loss insurance, the proposed requirement that Navigators disclose ''any lines of insurance business'' is not intended to apply to the sale of health insurance or stop loss insurance, since these are not conflicts of interest that could be mitigated through disclosure (see § 155.210(d)).

In addition, we proposed to require disclosure of two other types of indirect financial conflicts of interest. We stated that Navigators and their staff members would be required to disclose to the Exchange and each consumer receiving application assistance, any existing and former employment relationships they have had within the last five years with any issuer of health insurance or stop loss insurance, or subsidiaries of such issuers. It is intended that any existing employment relationships disclosed would be non-prohibited relationships, because receipt of any consideration directly or indirectly from any health insurance issuer or issuer of stop loss insurance in connection with the enrollment of any individuals or employees in a QHP or a non-QHP would already be prohibited by § 155.210(d)(4). We specified that Navigators and their staff must also disclose any existing employment relationships between any health insurance issuer or stop-loss insurance issuer, or subsidiary of such issuers, and the Navigator or staff member's spouse or domestic partner. Navigators and their staff members would also be required to disclose to the Exchange, and to each consumer receiving application assistance, any existing or anticipated financial, business, or contractual relationships with one or more issuers of health insurance or stop loss insurance or subsidiaries of such issuers. These types of conflict-of-interest relationships with issuers of health insurance or stop loss insurance should be disclosed because these relationships may confer benefits or indirect financial gain that would compromise a Navigator's objectivity. We solicited public comments on the proposed requirement to disclose certain types of potential financial conflicts of interest.

At § 155.215(a)(2), we proposed to establish a set of parallel conflict-of-interest standards that would apply in Federally-facilitated Exchanges (including State Partnership Exchanges) to non-Navigator assistance personnel carrying out consumer assistance functions under 155.205(d) and (e), and to non-Navigator assistance personnel in a State Exchange funded through federal Exchange Establishment grants. We explained that we believe the same conflict-of-interest considerations that apply to Navigators should also apply to these non-Navigator assistance personnel. We solicited public comments on the application of these proposed standards to non-Navigator assistance personnel. The comments received did not distinguish between the application of these standards to Navigators or non-Navigator assistance personnel, and therefore we address comments for § 155.215(a)(2) and the comments for § 155.215(a)(1) together.

Comment: Commenters generally supported the conflict of interest standards. Most said that the standards appropriately balance protection for consumers with burdens on potential Navigators and non-Navigator assistance personnel. Some commenters requested that CMS provide a model form for the attestation and the mitigation plan requirements. One commenter recommended that CMS develop a script for making disclosures of non-prohibited conflicts to consumers and that these disclosures be made orally to ensure they are not just written and posted without being discussed. Another commenter requested that CMS require the disclosures about conflicts to consumers be in plain language so that consumers will fully understand them. A few commenters questioned the usefulness of disclosing non-prohibited conflicts of interest to consumers, however these commenters noted that the disclosure to the Exchange is necessary.

Response: We appreciate the comments supporting the conflict of interest standards in the proposed rule. At this time we do not anticipate developing a model form for the attestation and mitigation plan or a script for making disclosures of non-prohibited conflicts to consumers. The disclosure would likely vary depending on the circumstances of the Navigator or non-Navigator assistance personnel providing it, and therefore a uniform script would be difficult to develop. Additionally, the final rule does not specify whether this disclosure to consumers should be written or oral. Navigators and non-Navigators should use their discretion to determine which form of disclosure is most appropriate for a particular consumer receiving application assistance. For example, if a Navigator or non-Navigator is serving a community known to have low rates of literacy, an oral disclosure would likely be more appropriate than a written disclosure. We agree with the comment recommending the disclosure to consumers be made in plain language, which is consistent with the requirements under § 155.205(c), and have modified the language of § 155.215(a)(1)(iv) and (a)(2)(v) accordingly.

Comment: Commenters generally supported what they referred to as ''strong conflict of interest standards.'' Many commenters stated appreciation for applying the same standards to both Navigators and non-Navigator assistance personnel to which § 155.215 applies. However one commenter requested that we ensure that non-Navigator assistance personnel (as well as certified application counselors and Navigators), be prohibited from limiting the information they give to consumers based on that individual assister's personal beliefs or an institutional assister's beliefs. Another commenter requested that the provisions governing non-Navigator assistance personnel should mirror the Navigator requirements that Navigators not have a conflict of interest and that they provide information and services in a fair, accurate, and impartial manner.

Response: We agree that the conflict of interest standards for non-Navigators should mirror the conflict of interest standards for Navigators, which are a type of consumer assistance personnel. We therefore proposed, and now finalize in § 155.215(a)(2)(i), that the same prohibitions on Navigator conduct set forth at § 155.210(d) also apply to non-Navigators in the Exchanges and circumstances to which 155.215 applies. We also proposed, and now finalize in §§ 155.215(a)(1)(iii) and 155.215(a)(2)(iv), the requirement that the Navigators and non-navigator Navigator assistance personnel to which 155.215 applies provide information to consumers about the full range of QHP options and insurance affordability programs for which they are eligible. We note that one commenter correctly observed that the requirement to provide information in a fair, accurate, and impartial manner, a requirement for Navigators under section 1311(i)(5) of the Affordable Care Act and 45 CFR 155.210(e)(2), was not specifically

extended to the non-Navigator assistance personnel to whom 155.215 applies in our proposed rule. We did explain in the preamble to the proposed rule (at 78 FR 20586), however, that non-Navigator assistance personnel who carry out consumer assistance and outreach and education authorized under § 155.205(d) and (e) in Federally-facilitated Exchanges, including State Partnership Exchanges, and non-Navigator assistance personnel in State Exchanges that are funded through Exchange Establishment grants, should be subject to conflict of interest standards; and that we believe that in order to be helpful to the public, the services provided under § 155.205(d) and (e) should be carried out in a fair, accurate, and impartial manner. It was therefore our intent that this duty apply to both Navigators and non-Navigator assistance personnel to which § 155.215 applies. We are therefore amending § 155.215(a)(2)(i) to add the requirement that non-Navigator assistance personnel in the Exchanges and circumstances to which 155.215 applies, like all Navigators, have a duty to provide information in a fair, accurate, and impartial manner. This amendment ensures that there will be parallel conflict of interest standards between Navigators and non-Navigator assistance personnel to which § 155.215 applies.

With respect to certified application counselors, § 155.225(d)(4) imposes a standard different from the ''fair and impartial'' standard discussed above. Instead, certified application counselors must act in the best interest of the applicants they assist. Section 155.225(c)(1) does specify that all certified application counselors must provide information to consumers about the full range of QHP options and insurance affordability programs for which they are eligible. However, as discussed elsewhere in this preamble, we are not extending any prohibition on being a certified application counselor based on conflicts of interest that apply to Navigators and non-Navigator assistance personnel to which § 155.215 applies, although we are requiring certified application counselors to disclose conflicts of interest to consumers.

Comment: A number of commenters thought health insurance issuers, plans, and their agents should be barred explicitly from serving as non-Navigator assistance personnel.

Response: We are finalizing § 155.215(a)(2)(i), with the amendment mentioned above, which prohibits certain persons and entities from being non-Navigator assistance personnel in the contexts and Exchanges to which § 155.215 applies, including a health insurance issuer or its subsidiary; an issuer of stop-loss insurance or its subsidiary; an association that includes members of or lobbies on behalf of the insurance industry; or a recipient of any direct or indirect consideration from any health insurance issuer or issuer of stop-loss insurance in connection with the enrollment of any individuals or employees in a QHP or non-QHP. The inclusion of an association that includes members of or lobbies on behalf of the insurance industry as a prohibited non-Navigator assistance program is not meant to prohibit associations, such as a bona fide Chamber of Commerce, which a wide variety of businesses join in connection with civic and community matters unrelated to the nature of their business, from having a non-Navigator assistance program.

b. Training Standards for Navigators and Non-Navigator Assistance Personnel Carrying Out Consumer Assistance Functions Under §§ 155.205(d) and (e) and 155.210 (§ 155.215(b))

i. Certification and Recertification Standards (§ 155.215(b)(1))

Section 1311(i)(4) of the Affordable Care Act directs the Secretary to establish standards for Navigators, including provisions to ensure that any private or public entity that is selected as a Navigator is qualified, and licensed if appropriate, to engage in Navigator activities and to avoid conflicts of interest. Additionally, 45 CFR 155.210(b)(2) directs the Exchange to develop and publicly disseminate a set of training standards, to be met by all entities and individuals carrying out Navigator functions, to ensure Navigator expertise in the needs of underserved and vulnerable populations, eligibility and enrollment rules and procedures, the range of QHP options and insurance affordability programs, and privacy and security requirements applicable to personally identifiable information. Under existing regulations at 45 CFR 155.210(c)(1)(iii), Navigators must meet any ''licensing, certification or other standards prescribed by the state or Exchange, if applicable''; this final rule amends these regulations to add, ''so long as such standards do not prevent the application of the provisions of title I of the Affordable Care Act.'' In addition, we finalize in this rulemaking the proposed amendment to § 155.205(d) that would require any individual providing consumer assistance under that section, including Navigators, to ''be trained regarding QHP options, insurance affordability programs, eligibility, and benefits rules and regulations governing all insurance affordability programs operated in the state, as implemented in the state, prior to providing such assistance.''

At § 155.215(b)(1), we proposed that all Navigators and non-Navigator assistance personnel in a Federally-facilitated Exchange or State Partnership Exchange, and all non-Navigator assistance personnel in a State Exchange that are funded through a grant under section 1311(a) of the Affordable Care Act, must register with the Exchange and be certified by the Exchange, and prior to certification, complete an HHS-approved training before carrying out any consumer assistance functions in the Exchange. We proposed in § 155.215(b)(2) the broad topic areas about which Navigators and non-Navigator assistance personnel to which § 155.215 applies would receive training prior to certification. The proposed rule would also require that individuals and staff of Navigator entities and non-Navigator assistance entities receive a passing score on all HHS-approved examinations in order to serve as Navigators or non-Navigator assistance personnel in a Federally-facilitated Exchange, a State Partnership Exchange, or as non-Navigator assistance personnel in a State Exchange funded through federal Exchange Establishment grants.

The rule also proposed that Navigators and non-Navigator assistance personnel to which § 155.215 applies should obtain continuing education and be certified and/or recertified on at least an annual basis. The proposed recertification requirement for Navigators and non-Navigator assistance personnel to which § 155.215 applies would ensure that they remain appropriately trained to adequately serve consumers.

We also proposed at 45 CFR 155.215(b)(1)(v) that these certification requirements would specifically direct that all Navigators and non-Navigator assistance personnel to which § 155.215 applies be prepared to serve both the individual Exchange and SHOP. Section 1311(i)(2)(A) of the Affordable Care Act directs that, to be eligible to receive a Navigator grant, an entity must demonstrate that it has existing relationships, or could readily establish relationships, with employers and employees (among other groups). In addition, section 1311(i)(2)(B) of the Affordable Care Act directs that the types of entities that may be eligible for a Navigator grant include resource partners of the Small Business Administration. We infer from these standards that Navigators must be prepared to serve the needs of small

businesses, and therefore will need to be prepared to serve the needs of both the individual Exchange and SHOP. We also believe that non-Navigator assistance personnel to which § 155.215 applies should be prepared to serve the needs of both the individual Exchange and SHOP. We solicited public comments on these proposed training and certification standards, including the proposed recertification standards.

Comment: CMS received numerous comments from a broad range of commenters regarding the requirement that all Navigators and non-Navigator assistance personnel to which § 155.215 applies be prepared to serve both the individual market and SHOP Exchanges. These commenters generally recommended that Navigators and non-Navigator assistance personnel to which § 155.215 applies should not be required to serve the SHOP Exchange. Some commenters suggested that some Navigators and non-Navigator assistance personnel to which § 155.215 applies could specifically serve the individual Exchange while others could specifically serve the SHOP. Other commenters suggested that Navigators and non-Navigator assistance personnel to which § 155.215 applies should be trained to have general knowledge of the SHOP to be able to provide appropriate assistance to individuals seeking coverage, particularly where SHOP eligibility may vary among family members. Commenters pointed to states that intend to establish and operate only a State SHOP Exchange, while the federal government operates the individual market Exchange for that state, and that intend to use certified agents, or brokers, or producers to assist small businesses with enrolling in coverage through the State SHOP. Others indicated that some community based organizations serving underserved populations may be dissuaded from applying to be Navigator entities because they have no or limited connections with small businesses.

Response: We are finalizing proposed § 155.215(b)(1)(v) without change. However, we do not interpret the provision as meaning that the Navigators and non-Navigator assistance personnel to which § 155.215 applies must actively seek out small businesses and employers to assist, unless that is the community the Navigator or non-Navigator assistance personnel is intending to target in its service delivery.

Training regarding the SHOP will be required to ensure that persons seeking assistance with SHOP coverage from a Navigator or non-Navigator assistance personnel can receive assistance. In some circumstances, the assistance may be provided through referral to other Exchange resources, such as the toll-free Exchange call center, or to another Navigator or non-Navigator assistance personnel in the same Exchange who, through reasonable efforts by the Navigator or non-Navigator, has been identified as having the capacity to serve that individual or employer more effectively.

Additionally, we have proposed amendments to the existing Exchange regulations that would permit states to establish and operate only a State SHOP Exchange, while the federal government operates an individual market Exchange for that state. One of those proposed amendments is a provision that would permit SHOPs in states that opt to establish and operate a SHOP independently of a Federally-facilitated individual market Exchange to focus the SHOP Navigator program on outreach and education to small employers.[7] If this proposal is finalized, in states that take this option, SHOP Navigators would be able to fulfill their statutory and regulatory obligations under section 1311(i) of the Affordable Care Act and 45 CFR 155.210 to facilitate enrollment in QHPs, and to refer consumers with complaints, questions, and grievances to applicable offices of health insurance consumer assistance or ombudsmen, by referring small businesses to agents and brokers for these types of assistance, so long as State law permits agents and brokers to carry out these functions.

Comment: Some commenters raised concerns regarding the security of consumer's personally identifiable information and requested that CMS specify how this information will be protected. In addition a few commenters asked questions regarding minimum eligibility criteria and background checks for Navigators and non-Navigator assistance personnel to which § 155.215 applies.

Response: We are committed to ensuring consumer privacy. Navigators and non-Navigator assistance personnel to which § 155.215 applies, as part of their certification requirements, receive training on the privacy and security standards applicable under 45 CFR 155.260, which requires compliance with those standards. In addition, we do not expect that Navigators and non-Navigator assistance personnel will retain any personally identifiable information (PII). They will assist consumers in completing the enrollment application, which requires entry of some PII into either a computer-based or paper application; however, once the application is completed, Navigator or non-Navigator assistance personnel should not retain any of the information entered onto the application. With respect to electronic applications, the consumer will be logged on to a personal account, to which the Navigator or non-Navigator assistance personnel generally will not have access without the consumer present. Federal Navigator grantees will have been screened by a thorough grant application process prior to being determined eligible for an award, and will be subject to a rigorous oversight process. States may choose to require minimum eligibility criteria and background checks for Navigators and non-Navigator assistance personnel, so long as such requirements do not prevent the application of title I of the Affordable Care Act. CMS, as the operator of the Federally-facilitated Exchange, will be monitoring Navigators and non-Navigator assistance personnel to which § 155.215 applies under § 155.215(e) and will take appropriate action if complaints of fraud and abuse arise. In addition, § 155.260 provides for civil monetary penalties for violations of legal requirements to protect the privacy and security of personally identifiable information. Other federal laws regarding privacy and security may be applicable as well and provide sanctions for violations.

Finally, as a measure to ensure that Navigators are able to carry out consumer assistance functions in Federally-facilitated Exchanges, the final rule establishes training and certification standards which include the requirement that Navigators and non-Navigator assistance personnel to which § 155.215 applies complete and achieve a passing score on all approved certification examinations prior to carrying out any consumer assistance functions under §§ 155.205(d) and (e) or 155.210.

Comment: CMS received several comments requesting the creation of a dedicated portal for Navigators and non-Navigator assistance personnel within the online enrollment portal for submission of applications on behalf of consumers, with the consumer's permission. In addition to the portal, commenters also requested the establishment of a dedicated technical assistance unit and helpline in the Federally-facilitated Exchange to support Navigators and non-Navigator assistance personnel to which § 155.215 applies.

[7] Patient Protection and Affordable Care Act; Program Integrity: Exchange, SHOP, Premium Stabilization Programs, and Market Standards, 78 FR 37032, 37052 and 37082 (June 19, 2013).

Response: At this time, we do not anticipate that a dedicated portal will be available for the use of Navigators and non-Navigator assistance personnel (or for certified application counselors) in the Federally-facilitated Exchanges. However, we will continue to consider and explore this option for future years. Navigators and non-Navigator assistance programs in the Federally-facilitated Exchanges will receive technical assistance from various sources, including CCIIO project officers for Navigator grantees, state resources for non-Navigator assistance programs, and the toll-free Federally-facilitated Exchange Call Center.

Comment: Commenters urged HHS to adequately fund and support consumer assistance functions of an Exchange. Several requested clarification from CMS about whether private support can be used to leverage federal Medicaid matching funds to provide enrollment assistance. Commenters also requested CMS to allow section 1311(a) Exchange Establishment grant funds to be used to provide consumer assistance in full Federally-facilitated Exchange states that are not a State Partnership Exchange.

Response: A discussion of the appropriate sources of the non-federal share of Medicaid expenditures is outside the scope of this rulemaking. With regard to the use of section 1311(a) Exchange Establishment funding for consumer assistance and outreach, we direct commenters to the FAQ issued on April 23, 2013, *http://www.cms.gov/CCIIO/Resources/Fact-Sheets-and-FAQs/marketplace-funding-marketing-faq.html,* and to the FAQs issued on May 13, 2013, *http://www.cms.gov/CCIIO/Resources/Fact-Sheets-and-FAQs/ca-spm-funding.html,* and *http://www.cms.gov/CCIIO/Resources/Fact-Sheets-and-FAQs/spm-ffm-funding.html.* Finally, with regard to the comment about adequate assistance for Exchange consumer assistance functions, we note that HHS has issued a funding opportunity announcement for the Navigator program in the Federally-facilitated Exchanges and State Partnership Exchanges, and is providing section 1311(a) Exchange Establishment Grants to states that may be used to fund non-Navigator assistance programs to carry out functions authorized by § 155.205(d) and (e) consistent with the discussion in the preamble to the April 5, 2013 proposed rule (78 FR at 20583 through 20584).

ii. Training Module Content Standards (§ 155.215(b)(2))

In § 155.215(b)(2), we proposed a set of standards for the content of the training modules for Navigators and non-Navigator assistance personnel in a Federally-facilitated Exchange or State Partnership Exchange, and for federally funded non-Navigator assistance personnel in a State Exchange, to ensure that they would be knowledgeable in the areas described in the statute and existing regulations and that they would be fully prepared to assist consumers.

Navigators and non-Navigator assistance personnel to which § 155.215 applies will receive training in many areas including QHPs, the range of insurance affordability programs, eligibility requirements for premium tax credits and cost-sharing reductions, eligibility and enrollment rules and procedures, providing culturally and linguistically appropriate services, ensuring physical and other accessibility for individuals with disabilities, and privacy and security standards for handling and safeguarding consumers' personally identifiable information. It is expected that this assistance would accommodate the full range of disabilities. The complete list of required training module content standards is set forth in § 155.215(b)(2).

Comment: CMS received numerous comments recommending that specific topics be included in the training for Navigators and non-Navigator assistance personnel to which § 155.215 applies. Recommended topics include pediatric dental benefits; privacy standards for mixed immigration status households; the appropriate handling and safeguarding of consumer information; working with specific populations, including transgender individuals, the LGBT community, people of color, households that are experiencing mental illness, people with substance use disorders, people experiencing homelessness, and people with low health literacy; insurance affordability programs, particularly in states that have chosen not to expand their Medicaid program; and the individual responsibility requirement and other tax consequences.

Response: We are finalizing the language of the training module content standards in § 155.215(b)(2) without modification. The language of this provision is broadly written so that it can include many discrete topics, including many of those recommended by commenters. We specifically note that the proposed rule already includes training on privacy and security, on linguistic and cultural competence, and on ensuring access for people with disabilities. By defining the training modules broadly, we will be able to modify the specific training content each year so that it is tailored to the specific circumstances of the federal Exchanges and provides effective assistance to consumers.

Comment: Multiple comments were received regarding the number of hours of training for Navigators and non-Navigator assistance personnel to which § 155.215 applies. Some commenters suggested expanding the number of hours. Several commenters asked for clarification of the circumstances under which a state may require additional training beyond the number of hours discussed in the preamble to the proposed regulation. Some commenters stated that non-Navigator assistance personnel should not be required to take all 30 hours of Navigator training. Other commenters expressed concern that Navigators and non-Navigator assistance personnel to which § 155.215 applies will not receive enough training to be able to adequately assist consumers.

Response: Under the final rule, Navigators and non-Navigator assistance personnel to which § 155.215 applies will receive extensive training covering many broad content categories to prepare them to assist consumers competently. This training is designed to ensure that Navigators and non-Navigator assistance personnel to which § 155.215 applies are knowledgeable about QHPs, insurance affordability programs, tax implications of enrollment decisions, eligibility for premium tax credits and cost-sharing reductions, and other topics. In addition, prior to being certified, Navigators and non-Navigator assistance personnel to which § 155.215 applies will be required to take and pass a test ensuring their competence in each of the training content categories. We believe that up to 30 hours of training, as stated in the proposed rule, is sufficient for Navigators and non-Navigator assistance personnel in Federally-facilitated Exchanges and State Partnership Exchanges to perform their duties and is in keeping with the number of hours of training many states require for individuals seeking licensure as an agent or broker. We also note that State Exchanges using 1311(a) Establishment funds for their non-Navigator assistance programs, such as in-person assistance programs, may choose to require additional hours of training.

In addition, with regard to state law training requirements, 45 CFR 155.210(c)(1)(iii) requires Navigators to meet state licensing, certification and

other requirements, if applicable. We are amending that provision in this rule to require that those standards must be met so long as they do not prevent the application of the provisions of title I of the Affordable Care Act.

Comment: One commenter sought confirmation that the HHS approved training does not apply to State Exchanges.

Response: State Exchanges must develop their own training and certification programs for Navigators and non-Navigator assistance personnel, and, as explained earlier in this rule, may use section 1311(a) Exchange Establishment grant funds to cover the administrative costs associated with this requirement. If a State Exchange uses section 1311(a) Exchange Establishment grant funds for this purpose, it must comply with the training standards set forth in this rule.

Comment: Several comments suggested that training content should be made available to all who are interested, including individuals who are not seeking to be certified application counselors or to serve as Navigators or non-Navigator assistance personnel, but who will work with consumers by providing education or problem-solving, such as people who work for legal-services organizations.

Response: We understand there may be individuals who are not Navigators, non-Navigator assistance personnel or certified application counselors, but who are interested in assisting consumers with applying for and enrolling in QHPs and insurance affordability programs. While we intend to make the training available online only those individuals who are certified can act as certified application counselors, Navigators, or non-Navigator assistance personnel by Federally-facilitated Exchanges.

c. Providing Culturally and Linguistically Appropriate Services (CLAS Standards) (§ 155.215(c))

At § 155.215(c), we proposed standards for the use and provision of culturally and linguistically appropriate tools and services for those who seek assistance from Navigators and non-Navigator assistance personnel in a Federally-facilitated Exchange or State Partnership Exchange, and for non-Navigator assistance personnel in a State Exchange that are funded with section 1311(a) Exchange Establishment grants.

Section 1311(i)(3)(E) of the Affordable Care Act directs that Navigator entities have a duty to provide information in a manner that is culturally and linguistically appropriate to the needs of the population being served by the Exchange or Exchanges. Section 155.210(e)(5) requires Navigators to ''provide information in a manner that is culturally and linguistically appropriate to the needs of the population being served by the Exchange, including individuals with limited English proficiency'' (§ 155.210(e)(5)). Additionally, all non-Navigator assistance personnel must meet the accessibility standards set forth at § 155.205(c).

Independent of these obligations, certain Federal civil rights laws, such as Title VI of the Civil Rights Act of 1964 and Section 504 of the Rehabilitation Act of 1973, also apply to Navigators in Federally-facilitated and State Partnership Exchanges. These laws also apply to non-Navigator assistance programs in State Exchanges and State Partnership Exchanges to the extent such programs receive federal financial assistance. These federal civil rights laws impose nondiscrimination obligations with respect to persons with disabilities and that address the communications needs of persons who have limited English proficiency (LEP).

While the proposed training module content standards discussed earlier in this preamble included a requirement that training include providing culturally and linguistically appropriate services, the proposed rule also provided more specific standards for ensuring meaningful access. These proposed standards should be read together with all other applicable standards issued by the Secretary related to ensuring meaningful access to information by individuals with limited English proficiency, as required under §§ 155.210(e)(5) and 155.205(c) (as applied to Navigators and non-Navigators by § 155.205(d) and (e)).

At § 155.215(c), we proposed that Navigators and non-Navigator assistance personnel to which § 155.215 applies should develop, maintain, and regularly update their general knowledge about the racial, ethnic, and cultural groups in their service area, including the primary languages spoken, and continue to use this information. We specified that the proposed requirements would also include that such entities and individuals provide consumers with information and assistance in the consumer's preferred language, which would include oral interpretation of non-English languages and the translation of written documents in non-English languages when necessary to ensure meaningful access. We also proposed that use of a consumer's family or friends as interpreters can satisfy the requirement to provide linguistically appropriate services only when requested by the consumer as the preferred alternative to an offer of other interpretive services by the Navigator or non-Navigator assistance personnel to which § 155.215 applies.

At § 155.215(c)(4), we proposed to require that the Navigators and non-Navigator assistance personnel to which § 155.215 applies provide limited-English-proficient consumers with oral and written notices informing them of their right to receive language assistance services and how to obtain such services. We explained in the preamble to the proposed rule that this requirement could be satisfied using methods outlined in existing § 155.205(c)(2), which allows for the use of taglines in non-English languages placed on documents or Web sites to indicate the availability of language assistance services.

At 155.215(c)(6), we proposed to direct the Navigator and non-Navigator assistance programs to which § 155.215 applies to implement strategies to recruit and promote a staff that is representative of the demographic characteristics, including primary languages spoken, of the communities in their service area.

Comment: Many commenters recommended that CMS interpret the requirements of the proposed rule consistently with the *Enhanced National Standards for Culturally and Linguistically Appropriate Services (CLAS) in Health and Health Care (National CLAS Standards)* published by the HHS Office of Minority Health (''OMH'') on April 23, 2013, available at *https://www.thinkculturalhealth.hhs.gov/Content/clas.asp.* Some comments suggested that § 155.215(c) should be split into two parts, one focused on culture and one on language access. A few other commenters encouraged CMS to define what is included in providing culturally and linguistically appropriate services.

Response: We agree that the *National CLAS Standards* provide guidance for best practices in providing culturally and linguistically appropriate services and encourage all entities providing outreach and enrollment assistance to refer to that document as a resource, as well as the accompanying *Blueprint for Advancing and Sustaining CLAS Policy and Practice,* a new guidance document for the *National CLAS Standards* that discusses implementation strategies for each standard, in addition to §§ 155.205(c), (d), (e), 155.210(e)(5), and 155.215(c). We do not believe, however, that it is necessary to divide § 155.215(c) into subsections, as cultural competency

and language access are intertwined in the context of a consumer's experience.

Comment: Many commenters recommended adding more specificity to the requirement for cultural competency, suggesting that various communities be identified in the regulation, including communities based on immigration status, disability, gender identity, and sexual orientation. They also recommended that CMS require the collection of specific demographic data to ensure various communities are served.

Response: Although we are modifying other aspects of paragraph (c)(3), we are not modifying it to add specificity to the requirement of cultural competency. Navigators and non-Navigator assistance programs to which § 155.215 applies must provide services that are appropriate to all of the cultures of the communities they serve. We want to ensure we do not limit the requirement by including a detailed list of communities, and so are not amending the proposal to include such a requirement. We also want to ensure that Navigators and non-Navigator assistance programs to which § 155.215 applies have the flexibility to determine what information is most relevant to the communities they serve.

Comment: We received numerous comments concerning the provision of translation services, including when it is appropriate to rely on a consumer's family or friends to provide oral interpretations. In particular, some commenters encouraged CMS to amend § 155.215(c)(3) to require translated services ''when requested by the consumer to ensure effective communication,'' rather than ''where necessary for meaningful access.'' Some commenters also wanted clarification on the relationship between the duty to provide culturally and linguistically appropriate services and the duty to make appropriate referrals.

Response: In response to commenters' concerns, we have amended § 155.215(c)(3) to read ''when necessary or when requested by the consumer to ensure effective communication,'' rather than ''where necessary for meaningful access.'' While Navigators and non-Navigator assistance personnel are required to provide information in a manner that is culturally and linguistically appropriate to the needs of the population being served, a referral may be the most appropriate method for complying with that requirement in some circumstances. For example, a Navigator or non-Navigator assistance personnel to which may not have the resources to serve directly someone who speaks a language spoken by a specific individual within their service area and may need to refer the individual to another program. In such circumstances, the Navigator or non-Navigator assistance personnel should make reasonable efforts to make an appropriate referral for the consumer, with the goal of helping them find assistance with a minimum of effort and disruption. We remind Navigators and non-Navigator assistance programs receiving federal financial assistance of their independent obligations to comply with Title VI of the Civil Rights Act of 1964. Title VI prohibits discrimination on the basis of national origin, among other bases, and may require the provision of language assistance services.

Comment: Some commenters recommended that the notice provided to consumers informing them of their right to language access services should be required to be provided in the consumer's preferred language.

Response: We agree that it makes the most sense to require the notice of language access services be provided in a consumer's preferred language. Therefore we are amending § 155.215(c)(4) to require, ''notice to consumers with limited English proficiency, in their preferred language, informing them of their right to receive language assistance services and how to obtain them.''

d. Standards Ensuring Access by Persons With Disabilities (§ 155.215(d))

Existing regulation § 155.210(e)(5) directs that an entity serving as a Navigator has a duty to ''ensure accessibility and usability of Navigator tools and functions for individuals with disabilities in accordance with the Americans with Disabilities Act and Section 504 of the Rehabilitation Act.'' Similarly, § 155.205(c), which applies to persons providing consumer assistance pursuant to § 155.205(d) and (e), requires that persons carrying out those assistance functions provide individuals living with disabilities with information that is accessible, at no cost to the individual, in accordance with the Americans with Disabilities Act and section 504 of the Rehabilitation Act.

Additionally, independent of these obligations, certain Federal civil rights laws, such as Title VI of the Civil Rights Act of 1964 and Section 504 of the Rehabilitation Act of 1973, also apply to Navigators in Federally-facilitated and State Partnership Exchanges and to non-Navigator assistance programs in State Exchanges and State Partnership Exchanges to the extent such programs receive federal financial assistance. These federal civil rights laws impose nondiscrimination obligations with respect to persons with disabilities and that address the communications needs of persons who have limited English proficiency (LEP).

In accordance with these requirements, with respect to Navigators and non-Navigator assistance personnel in a Federally-facilitated Exchange or State Partnership Exchange, and for non-Navigator assistance personnel in a State Exchange that are funded with section 1311(a) Exchange Establishment grants, we proposed in § 155.215(d)(2) that auxiliary aids and services for individuals with disabilities be provided where necessary for effective communication and discussed when a consumer's family or friends can provide interpretation services. In addition, we proposed at § 155.215(d)(3) to require Navigators and non-Navigator assistance personnel to which § 155.215 applies to provide assistance to consumers in a location and in a manner that is physically and otherwise accessible to individuals with disabilities. We proposed at § 155.215(d)(1) that Navigators and non-Navigator assistance personnel to which § 155.215 applies should ensure that any consumer education materials, Web sites, or other tools utilized for consumer assistance purposes are accessible to people with disabilities.

We proposed at § 155.215(d)(4) that legally authorized representatives be permitted to assist individuals with disabilities to make informed decisions. We proposed in § 155.215(d)(5) that individuals carrying out Navigator and non-Navigator assistance functions to which § 155.215 applies should have the ability to refer people with disabilities to local, state, and federal long-term services and supports programs when appropriate. Finally, we proposed at § 155.215(d)(6) that Navigators and non-Navigator assistance personnel to which § 155.215 applies be able to work with all individuals regardless of age, disability, or culture, and seek advice or experts when needed.

Comment: A few commenters suggested that CMS should include more specific references to the Americans with Disabilities Act (ADA) and the Department of Justice's updated standards, section 508 of the Rehabilitation Act, and to the Navigators' other obligations under federal law to provide reasonable accommodations, as well as policy modifications when needed to ensure equally effective access to the Navigator program. Some commenters suggested that we clarify what is meant by ''meaningful access.''

Response: We are adopting the proposed regulation without including more specific references to the ADA or the Rehabilitation Act. Section 155.210(e)(5) and § 155.205(c), (d) and (e) require Navigators and non-Navigator assistance personnel to ensure that persons with disabilities can access and use Navigator and non-Navigator assistance services in accordance with the ADA and section 504 of the Rehabilitation Act. We also believe that the proposed rule and other applicable standards issued by the Secretary [8] adequately describe meaningful access.

Comment: Many commenters recommended that the requirement to provide auxiliary aids and services ''when necessary'' should be changed to ''when requested.'' They stated that Navigators or non-Navigator assistance personnel should not have discretion to determine if the services are ''necessary.'' A few commenters recommended that CMS require the use of an interpreter for persons with disabilities, even in instances where a family member is used, to ensure comprehensive, objective information is provided to the consumer. Some commenters believed that family members and friends are not qualified to interpret information of this nature.

Response: We agree that the term ''when necessary'' may not be sufficient to ensure that persons with disabilities receive the assistance they require. We also believe that the term ''when requested,'' on its own, may be insufficient to ensure the appropriate assistance. Some persons with disabilities may not have the capacity to effectively communicate a request for an auxiliary aid or service, such as a person who is deaf or hard of hearing, and some persons with disabilities may not know that they may have a right to an auxiliary aid or service. Additionally, the term ''when necessary'' allows the Navigators and non-Navigator assistance personnel to which § 155.215 applies to provide auxiliary aids and services when these may be obviously needed but when the person with a disability is not able to effectively communicate a request for an auxiliary aid or service. We have therefore modified § 155.215(d)(2) to state ''when necessary or when requested by the consumer to ensure effective communication'' We disagree, however, that use of an interpreter should be required. Giving an individual the opportunity to request that a friend or family member serve as an interpreter, as an alternative to an auxiliary aid, allows the individual to choose to receive assistance in a manner that is most comfortable to that individual.

Comment: Several commenters recommended that CMS provide information about commonly needed auxiliary aids and services and about accessibility features of different qualified health plans, including information about plan and provider accessibility, depending on the needs of the person with a disability.

Response: HHS training modules for the Navigators and non-Navigator assistance personnel to which § 155.215 applies will include content on accessibility needs and how to provide for them. Providing information about specific auxiliary aids and services and about plan and provider accessibility is beyond the scope of the duties of the Navigator and non-Navigator assistance programs.

Comment: Many commenters recommended that the word ''legally'' should be deleted from the authorized representative provision because the streamlined application allows designation of a representative without a legal determination and many persons with disabilities have an authorized representative that has not been legally determined.

Response: We agree with the comments and have modified § 155.215(d)(4) accordingly.

Comment: Several commenters generally requested that CMS provide more specific protocols regarding referrals. A few commenters recommended that CMS clarify the requirement in paragraph (d)(5) to ''acquire sufficient knowledge to refer people with disabilities to local, state, and federal long-term services and support programs,'' to clearly state that these referrals would be made to facilitate consumer access to additional services, not for assistance with enrollment in coverage.

Response: We agree that Navigators and non-Navigator assistance personnel to which § 155.215 applies should have sufficient knowledge to be able to refer individuals with disabilities to additional assistance personnel to facilitate consumer access to additional services. As stated in paragraph (d)(5), these referrals should be made to local, state, and federal long-term services and supports programs when appropriate. The final rule will not be modified to specify the entities to which referrals must be made as such referrals will vary based on the needs of the individual and the available resources in each community.

e. Monitoring (§ 155.215(e))

We proposed in § 155.215(e) that Federally-facilitated Exchanges (including State Partnership Exchanges) will monitor compliance with the standards described in § 155.215 and with the requirements described in §§ 155.205(d) and (e) and 155.210. To the extent possible, these Exchanges will engage in monitoring whether the Navigators and non-Navigator assistance personnel serving their consumers comply with the applicable standards, including, for example: Reviewing reports filed by Navigators and reviewing the attestations and conflict-of-interest plans that are required to be submitted to the Exchange, under § 155.215(a)(1)(i) through (ii) and (a)(2)(ii) through (iii) of this regulation; conducting discussions with states in which Navigator grantees and non-Navigator assistance personnel exercise their functions; and reviewing casework and complaints filed with the Exchange or a relevant state. We solicited comments on how monitoring for non-Navigator assistance personnel in State Exchanges funded through federal Exchange Establishment grants should be conducted.

Comment: The majority of comments received on the monitoring provisions requested that CMS provide more guidance about how monitoring will be conducted. Some commenters provided suggestions about how to conduct monitoring. Recommendations include establishing a Navigator portal, conducting consumer experience surveys, secret shoppers, data collection activities, coordination with issuers, and reviewing consumer complaints.

Response: We will monitor Navigators in the Federally-facilitated Exchanges and State Partnership Exchanges in a manner consistent with the HHS regulations at 45 CFR parts 74 and 92 that apply to grants and cooperative agreements. Under this authority, we will monitor Navigator grantees for compliance with the terms of the program, including review of documents created and retained by the grantees, such as financial reports and performance reports. As appropriate, we may also conduct site visits or audits of Navigator programs. In addition to monitoring grantees under these provisions, we plan to work closely with states, consumer groups and issuers as part of our monitoring

[8] Examples include: National Standards for Culturally and Linguistically Appropriate Services in Health and Health Care: A Blueprint for Advancing and Sustaining CLAS Policy and Practice, Office of Minority Health, U.S. Department of Health and Human Services, April 2013, *https://www.thinkculturalhealth.hhs.gov/GUIs/GUI_TCHRegister.asp?mode=new&clas=yes;* Language Access Plan, U.S. Department of Health and Human Services, 2013, *http://www.hhs.gov/open/execorders/2013-hhs-language-access-plan.pdf.*

activities to help ensure compliance with the standards applicable to Navigators and non-Navigator assistance programs to which § 155.215 applies. We will also review consumer complaints received by HHS and the Exchange that relate to Navigators and non-Navigators to help identify possible compliance issues.

If a Navigator or non-Navigator is suspected of fraud or violations of other applicable federal laws, we will work closely with the appropriate federal agencies to ensure that the matter is fully investigated and addressed in a manner consistent with federal law.

Comment: Several commenters had specific recommendations about data collection for oversight purposes, including specific data points that should be collected as part of monitoring activities.

Response: Navigator grantees have data collection requirements specific to their grants. Similarly, non-Navigator assistance programs may have data collection requirements set by the states in which they are operating. In addition, if states use federal grant funds to establish and run non-Navigator assistance programs, HHS will monitor the use of those federal grant funds in a manner consistent with the HHS regulations at 45 CFR part 92 that apply to grants to states. We are currently reviewing data collection by Exchanges and will take the comments under consideration.

f. Summary of Changes

We are finalizing new § 155.215 with minor changes. First, § 155.215(a)(1)(iv) and (a)(2)(v) are being revised to include a requirement that disclosures to consumers of non-prohibited conflicts of interest must be in plain language. Second, § 155.215(a)(2)(i) is being amended to require the non-Navigator assistance personnel to whom the rule applies to comply with § 155.210(e)(2), which requires providing information to consumers in a fair, accurate, and impartial manner. Third, § 155.215(c)(3) is being amended to require Navigators and non-Navigator assistance personnel to which § 155.215 applies to provide language access services to consumers when requested or necessary to ensure effective communication. A similar revision is also made with respect to the availability of auxiliary aids and services for individuals with disabilities in § 155.215(d)(2). Section 155.215(c)(4) is being amended to require the notice to LEP consumers regarding the availability of language access services, must be in the consumer's preferred language. Lastly, § 155.215(d)(4) is being revised to remove the term ''legally'' from the phrase ''legally authorized representative.''

C. Certified Application Counselors (§ 155.225)

The provisions of this section were proposed as part of the January 22, 2013 proposed rule (78 FR 4594).

1. General Rule and Standards of Certification (Proposed § 155.225(a) and (b)—Renumbered as § 155.225(a), (b), (c), & (d)).

In paragraph (a), we proposed that each Exchange must certify staff and volunteers of both Exchange-designated organizations and organizations designated by state Medicaid and CHIP agencies to act as certified application counselors. We also proposed the minimum duties of certified application counselors, including providing consumers with information about insurance affordability programs and coverage options, assisting them with applications, and facilitating their enrollment in QHPs and insurance affordability programs.

In paragraph (b), we proposed certification standards for certified application counselors, including registering with the Exchange, completing required training, disclosing conflicts of interest, complying with the privacy and security standards of the Exchange, acting in the best interest of the applicants assisted, complying with applicable state law, providing reasonable accommodations for people with disabilities, and entering into an agreement with the Exchange to comply with the standards in this paragraph. In the preamble to the proposed rule, we noted that an Exchange could develop a single set of core training materials that can be used by Navigators, agents and brokers, and certified application counselors, and that federal training and support materials would be made available for use by State Exchanges. We sought comment on whether State Exchanges should have the authority to create additional standards for certification or otherwise limit eligibility of certified application counselors beyond what we proposed.

Comment: We received many comments from a wide variety of entities, including state agencies, medical and health care trade associations, health insurers and insurance trade associations, and consumer advocacy organizations, supporting the need for certified application counselors. Other commenters objected to the program or asked that it be optional. Reasons commenters offered for objecting to the program or asking that it be optional included their belief that other entities will already provide the assistance that certified application counselors are designed to provide, wanting increased flexibility for State Exchanges, and the challenges of implementing a new application assistance program so close to its required implementation.

Response: Exchanges are required by § 155.205(d) and (e) to provide consumer assistance, outreach, and education, and we believe a variety of assistance options can most efficiently connect consumers with affordable and appropriate health insurance coverage through the Exchanges. We note that, since each Exchange is responsible for establishing its own certified application counselor program, the program's scope can vary based on each Exchange's needs and market features. States operating a State Exchange will have the flexibility to determine the size and scope of their certified application counselor program in order to meet the needs of consumers in the state.

We also understand commenters' concerns about the challenges faced by Exchanges when directly overseeing each individual certified application counselor. To help address these concerns, we are amending the proposed § 155.225(a) and (b). Instead of the Exchange certifying each individual application counselor, and in order to allow Exchanges flexibility, the final rule provides that each Exchange may either designate organizations to certify their staff members and volunteers as application counselors, certify individual application counselors directly, as provided in the proposed rule, or do both. We intend that Federally-facilitated Exchanges will designate organizations to certify application counselors. We are allowing State Exchanges to choose among these options. Designated organizations will be required to enter into an agreement with the Exchange and must enter into an agreement with each of their certified application counselors regarding compliance with the requirements of § 155.225. Certified application counselors must enter into an agreement with the applicable certifying entity and comply with all of the standards set forth in paragraphs (d), (f), and (g) (renumbered from paragraphs (b), (d), and (e) in the proposed rule). We believe that offering this modified structure will help simplify the implementation of a certified application counselor program. We also believe that, by retaining the option of using a direct certification model as proposed in the proposed rule and finalized as an option under § 155.225(b)(2), the final regulation will

not disrupt any State Exchange efforts already underway to implement the certified application counselor program.

In addition to creating efficiencies and flexibility for Exchanges, we think that designating organizations to certify their staff members and volunteers as application counselors will result in closer supervision and monitoring of the certified application counselors. Designated organizations already oversee their employees and volunteers and will be organizations that have processes in place to ensure compliance with security and privacy concerns, and are in a better position to ensure that their staff and volunteers comply with the certified application counselor standards set forth in this rule. Each organization designated by an Exchange to certify application counselors must maintain a registration process and method to track the performance of certified application counselors.

HHS will address in guidance the process that the Federally-facilitated Exchanges will follow when designating organizations to certify staff and volunteers as application counselors. As specified in paragraph (b)(1), this process will include an agreement between the designated organization and the Exchange which will direct the designated organization to certify only staff and volunteers who comply with the requirements of § 155.225.

Comment: Some commenters requested clarification regarding the types of organizations that, under the proposed rule, could be designated to have their staff and volunteers serve as certified application counselors, and several appreciated HHS's recognition that health care providers, community-based organizations, and community health centers play an important role in providing application assistance. Various commenters proposed that staff and volunteers of many types of organizations should be allowed to be certified application counselors, including hospitals, vendors who assist providers with eligibility and enrollment, non-profit patient advocacy organizations, community based organizations, integrated delivery systems, health insurance issuers, and multi-employer associations.

Response: We believe that it is important to engage organizations that have long played a vital role in facilitating enrollment for individuals seeking coverage, already have processes in place to ensure that their staff and volunteers have been screened, and already have systems in place for protecting personally identifiable information. In order to ensure that organizations designated to certify their staff members and volunteers as application counselors have these types of safeguards in place, we expect the types of organizations the Federally-facilitated Exchanges will designate will be limited to community health centers such as Federally Qualified Health Centers (FQHCs); hospitals; health care providers (including Indian Health Services, Indian tribes and Urban Indian organizations that provide health care); behavioral health or mental health providers; Ryan White HIV/AIDS providers; agencies which have experience providing social services to the community, such as Supplemental Nutrition Assistance Program (SNAP) outreach, energy assistance, or tax assistance, that are either non-Federal governmental entities or organized under section 501(c) of the Internal Revenue Code; or other local governmental agencies that have similar processes and protections in place, which may include organizations such as other health care providers, health departments, and local libraries. Since these types of organizations already have many of the processes in place that are necessary to meet the standards in § 155.225(b)(1) and to ensure that their staff and volunteers meet the standards of certification in § 155.225(d) (renumbered from subparagraph (b) in the proposed rule), we anticipate that the burden on these organizations to certify their staff members and volunteers as certified application counselors will be minimal. Furthermore, no organization is required to certify its staff members and volunteers as application counselors; the program is completely voluntary. The Federally-facilitated Exchange will list on its Web site the organizations that apply and it designates to provide certified application counselors as a resource for consumers.

Comment: Several commenters expressed support for the proposed requirement that certified application counselors disclose potential conflicts of interest. Many commenters suggested that health insurance issuers, their subsidiaries, and agents and brokers should not be allowed to serve as certified application counselors due to conflicts of interest. Several commenters asked us to clarify the legal and liability rules for staff of health insurance issuers acting as certified application counselors when the entity offers insurance coverage.

Response: We are finalizing the proposal that certified application counselors must disclose conflicts of interest. To accommodate the Exchanges designating organizations to certify individual application counselors and the State Exchanges, if they choose, to certify individual application counselors directly, the final rule provides that this disclosure should be to the Exchange-designated organization and to potential applicants, or if an Exchange directly certifies individual application counselors, to the Exchange and to potential applicants. As proposed, we do not think that any conflict of interest should prohibit certified application counselors from helping consumers apply for and enroll in coverage. In § 155.225(d)(2) (renumbered from paragraph (b)(3) in the proposed rule), we finalize the proposal that the potential conflicts of interest that certified application counselors must disclose include, but are not limited to, any relationships with QHPs or insurance affordability programs, such as Medicaid plans and Medicaid managed care organizations. We believe this approach balances the goal of allowing a wide range of certified application counselors to assist consumers while providing them the information that will help them understand whether the certified application counselor has any conflicts or potential conflicts of interest that may color the information being provided.

Comment: A commenter proposed that anyone seeking to serve as a certified application counselor should have Medicaid/CHIP experience or experience with underserved communities.

Response: To encourage participation from organizations, we have not amended the final rule to require this experience. Section 155.225(d) requires certified application counselors to be trained on the benefits, rules, and regulations governing all insurance affordability programs operated in the state, prior to functioning as a certified application counselor. Therefore, all certified application counselors will have the knowledge and skills necessary to assist consumers with Medicaid and CHIP.

Comment: A large number of commenters expressed concerns about the fact that certified application counselors would not be funded through the Exchange. Several commenters feared that taking on an unfunded assistance role would stretch the already slim resources of community-based organizations. Commenters offered a variety of solutions, including allowing Exchanges, states, or Medicaid programs to fund certified application counselors; HHS providing information about possible funding streams; making funds

available for safety-net providers; and funding through Exchange user fees.

Response: Although we do not expect or require that certified application counselors be funded by Exchanges, nothing in the proposed or final rule prohibits organizations with certified application counselor programs from obtaining funding from other sources, including applicable private, state and federal programs. Section 1311(a) Establishment grant funds are available for the costs incurred by the State Exchange for establishing the certified application counselor training program and to cover administrative costs associated with the certified application counselor program. However, we expect that such costs, beyond training, will be minimal.

Nothing in § 155.225 prevents or interferes with a State Exchange operating other Exchange-funded application assistance programs, including a Navigator program under 45 CFR 155.210 or a non-Navigator assistance program carrying out activities under § 155.205(d) and (e). No organization is required to apply to become or to become a designated organization; the program is completely voluntary for organizations. Finally, the rule does not prevent certified application counselors from being paid by their employer for their labor, for example, as a hospital employee, as long as any financial relationship that creates a potential conflict of interest under § 155.225(d)(2) is disclosed to potential applicants. As previously discussed, conflicts will not disqualify an individual from serving as a certified application counselor but must be disclosed.

We are also finalizing § 155.225(g) (renumbered from paragraph (e) in the proposed rule), which prohibits certified application counselors from imposing any charge on the applicants they assist.

Comment: Several commenters supported our proposed language in § 155.225(a) requiring the Exchange to certify staff and volunteers of both Exchange-designated organizations and organizations designated by state Medicaid and CHIP agencies to act as certified application counselors. However, a number of commenters were concerned about the inconsistencies between the Medicaid certified application counselor provision proposed at 42 CFR 435.908(c) and the Exchange certified application counselor provision proposed at § 155.225. Some commenters were confused about whether certification by one program might permit or require certification by the other. Some supported complete reciprocity, but because the Medicaid proposed rule at 42 CFR 435.908(c) allows the state to authorize certified application counselors to do one, some, or all of the assistance activities, several commenters recommended that the Exchange only certify Medicaid certified application counselors authorized to provide the full scope of activities or require them to receive additional training. Some commenters asked us to streamline the two rules.

Response: In finalizing the provision that designated organizations will include organizations designated by state Medicaid and CHIP agencies, we have deleted the reference to 42 CFR 435.908 (the Medicaid certified application counselor program). We recognize that staff and volunteers of a wide range of organizations provide Medicaid and CHIP application assistance in many states through a variety of formal and informal processes, including but not limited to those under 42 CFR 435.908. By removing the reference to 42 CFR 435.908, we allow organizations designated by state Medicaid and CHIP agencies under their processes to certify their staff members and volunteers to serve as certified application counselors. However, such organizations must enter into an agreement with the Exchange and their application counselors must enter into an agreement with the organization and comply with the requirements of § 155.225.

We note that, as in the Medicaid certified application counselor program, Exchange certified application counselors may, but are not required to, assist consumers with gathering required documentation, interacting with the Medicaid or CHIP agency or the Exchange on the status of such applications and renewals, responding to any requests from the Medicaid or CHIP agency or the Exchange, and following or managing their status between the eligibility determination and regularly scheduled renewals.

Comment: A number of commenters requested clarification regarding what triggers the need for certification of application counselors and expressed concern that the certification requirement would preclude non-certified individuals, such as health insurance issuers and Medicaid application counselors, and organizations from providing assistance. Some commenters proposed that tribal application counselors serving American Indians and Alaska Natives be exempt from certification requirements.

Response: Individuals and entities providing application and enrollment assistance related to health insurance or insurance affordability programs are not required to be certified application counselors, whether by the Exchange, state Medicaid or CHIP agencies, or to be organizations designated by the Exchange in order to continue providing those services or communicating with consumers. The certified application counselor program is not designed to limit existing or potential application assistance programs. Rather, the certification of an individual as a certified application counselor provides an assurance to consumers that they are receiving assistance from persons trained by the Exchange and overseen by organizations that protect personally identifiable information. Individuals who are not certified application counselors may take the certified application training, which we intend to make available to the general public and which we expect would help many types of organizations and assistance personnel provide Exchange-related education and application and enrollment assistance; however, they may not present themselves to the general public as certified application counselors.

Comment: Several commenters requested that the Indian Health Service, tribes and tribal organizations, and urban Indian organizations (I/T/Us) be given the option to develop a certification program under which the I/T/Us can certify that the individuals they sponsor meet all the relevant criteria, and that such certification be required to be accepted by state Medicaid/CHIP programs and all Exchanges.

Response: Exchanges that include one or more federally recognized tribes within their geographic area must engage in regular and meaningful consultation and collaboration with the tribes in accordance with § 155.130(f). Development of the certified application counselor program should be an element of Exchanges' consultation with tribal governments. We anticipate that the certified application counselor program will help ensure that American Indians and Alaska Natives are able to access and enroll in QHPs and insurance affordability programs offered through the Exchanges. We recognize that the American Indian and Alaska Native population can receive or continue to receive services from the Indian Health Service, tribal organizations, or urban organizations. In addition, we recognize that the Indian health system will continue to be a resource for educating and providing

information to the tribal community. As discussed above, the types of organizations that the Federally-facilitated Exchange will be likely to designate to certify their staff members and volunteers as application counselors include Indian Health Services, Indian tribes and Urban Indian organizations that provide health care, and behavioral health or mental health services. The Indian Health Service facilities and staff will have a critical role in educating American Indians and Alaska Natives about the special protection afforded to this population under the Affordable Care Act and facilitating the enrollment of the tribal community in Medicaid, CHIP, and QHPs available through the Exchanges. We therefore expect that Exchanges and States will maximize the opportunity for I/T/Us to participate in certification application counselor programs.

Comment: Many commenters recommended that all of the standards in § 155.215 applicable to Navigators and certain non-Navigator assistance personnel carrying out consumer functions under § 155.205(d) and (e) in specified Exchanges should also apply to certified application counselors to ensure consistent information and consumer protection across all assistance personnel types. Other commenters did not want HHS to apply these standards to certified application counselors.

Response: We agree that it is not appropriate to apply the standards in § 155.215 to certified application counselors without modification due to basic program differences between Navigator programs, non-Navigator assistance programs, and certification application counselor programs. In particular, we do not believe it is appropriate to apply all of the standards in § 155.215 to certified application counselors or to organizations designated to certify application counselors, since these individuals and entities will be expected to provide a more limited range of services. Throughout this preamble we discuss commenters' specific suggestions regarding the incorporation of Navigator and non-Navigator assistance personnel standards into the certified application counselor program.

Comment: Several commenters asked us to specify whether and how Exchanges are required to inform consumers of available assistance resources. Numerous commenters thought certified application counselors should have access to population-level data to help determine the needs of the population to be served, and several commenters suggested that certified application counselors conduct needs assessments.

Response: We encourage but do not require certified application counselors to conduct community outreach activities. While HHS does not intend to distribute population-level data to certified application counselors, HHS has made U.S. Census data about the demographics of uninsured populations available online at: *http://marketplace.cms.gov/exploreresearch/census-data.html.*

Comment: A number of organizations asked HHS to incorporate the nondiscrimination requirements of § 155.120 into the standards applicable to certified application counselors, while other commenters requested that HHS clarify that this requirement does not apply to tribal entities.

Response: HHS recently proposed to correct the inadvertent omission of the nondiscrimination requirements of § 155.120(c) from § 155.105(f), which lists the regulatory provisions that apply in a Federally-facilitated Exchange. (See 78 FR 37032.) Navigators, the assistance functions authorized under § 155.205(d) and (e), and the certified application counselor program are required functions of the Exchange under 45 CFR part 155. In order for any Exchange to comply with these nondiscrimination provisions, the Exchange must ensure that its Navigators, any activities authorized under § 155.205(d) and (e), including non-Navigator assistance personnel, organizations it designates to certify application counselors and certified application counselors, comply with § 155.120(c). Therefore, Navigators, non-Navigator assistance personnel authorized under § 155.205(d) and (e), organizations designated to certify staff or volunteers, and certified application counselors, as functions of the Exchange, must comply with the provisions of § 155.120(c) in any Exchange subject to that provision. Additionally, the preamble to final § 155.120(c) clarified that the nondiscrimination provisions apply not only to the Exchange itself but also to contractors with the Exchange and all Exchange activities, including but not limited to marketing, outreach, and enrollment. (See 77 FR at 18319 through 18320.) The preamble to final § 155.210 also clarified that Navigators, as third parties under agreement with the Exchange, are subject to the Exchange's nondiscrimination requirements under § 155.120(c). (See 77 FR 18332.)

Comment: A number of commenters proposed that certified application counselors provide applicants with information on all the QHPs, and not just some subset, available to them, such as those QHPs with whom the certified application counselor has a financial relationship, or those QHPs that may be consistent with the personal or religious beliefs of the certified application counselor or the designated organization with which he or she is affiliated. One commenter also expressed concern that certified application counselors might steer consumers to specific plans based on the consumer's stated health care and treatment needs, which could result in certain QHPs attracting a disproportionate number of very high risk individuals that might not be fully offset by the risk mitigation programs in the Affordable Care Act.

Response: We agree that it is in consumers' best interest to be informed about all QHPs and insurance affordability programs for which they are eligible. Therefore, we have amended § 155.225(c)(1) (renumbered from paragraph (a)(1) in the proposed rule) to clarify that certified application counselors are certified to provide information to individuals and employees about the full range of QHP options and insurance affordability programs for which they are eligible. In addition, § 155.225(d)(4) (renumbered from paragraph (b)(5) in the proposed rule) requires certified application counselors to act in the best interest of the applicants assisted and we have modified § 155.225(d)(2) (renumbered from paragraph (b)(3) in the proposed rule) to require disclosure to the designated organization, not the Exchange, when the organization is the certifying entity, or to the State Exchange if they are directly certified by the Exchange, and to potential applicants. We believe that these provisions protect against certified application counselors steering individuals to particular issuers, plans, or policies based on any self-interest or bias. We note that helping an individual make an informed decision based on their health care needs and the available coverage options is within the scope of certified application counselors' responsibilities and does not constitute steering. We believe certified application counselors will be able to provide information about the full range of QHP options and insurance affordability programs for which applicants are eligible since the Exchange plan comparison Web site is already required to display all QHPs for which the consumer is eligible.

Comment: We received a number of comments seeking clarification regarding what it means to ''facilitate enrollment'' under proposed § 155.225(a)(3) (renumbered as paragraph (c)(3) in this final rule).

Commenters requested that we add ''including assistance with advance payments of the premium tax credit, cost-sharing reductions, and tax reconciliation,'' and that we make explicit that ''facilitate enrollment'' includes providing assistance with plan comparison and selection.

Response: Helping to facilitate enrollment involves assisting the consumer with submitting the eligibility application, helping clarify distinctions among QHPs, and helping a qualified individual make an informed decision during the plan selection process. Making eligibility determinations and enrolling applicants into QHPs are Exchange functions, pursuant to § 155.400(a) and § 155.310(d). Accordingly, certified application counselors will not be making eligibility determinations, and will not be enrolling applicants into QHPs. They will also not be selecting QHPs for applicants. By ''help to facilitate enrollment . . . in QHPs and insurance affordability programs,'' we refer to the definition of ''insurance affordability programs'' at 42 CFR 435.4 (as amended at 77 FR 17203 (Mar. 23, 2012)) and mean that certified application counselors must at a minimum help consumers through the process of applying for and enrolling in QHPs through the Exchange, Medicaid, CHIP, and advance payments of the premium tax credit and cost-sharing reductions. However, nothing in this rule would prevent a certified application counselor from helping consumers access other health coverage programs, such as drug assistance programs and programs funded under the Ryan White program.

Comment: One commenter requested that HHS identify resources, such as Navigators or certified application counselors, which can provide consumers assistance with obtaining exemptions.

Response: While certified application counselors may provide assistance with exemptions, it is not required.

Comment: Many commenters responding to whether an Exchange should be able to create additional standards, or limit eligibility of certified application counselors beyond what HHS establishes, supported giving states the flexibility to add standards, such as licensure requirements and stronger consumer protection standards. Other commenters, however, opposed permitting states to impose additional certification standards, expressing concerns that additional requirements might be burdensome and could limit the number of certified application counselors or favor some health insurance issuers over others. Several commenters thought the provision in proposed § 155.225(b)(6) requiring certified application counselors to comply with state law applicable to application counselors was too vague. Some noted that any additional standards should be consistent with those for other types of assistance (for example, Navigators).

Response: We understand that some states have their own standards for areas such as privacy and security of consumers' personally identifiable information (PII) and conflicts of interest. However, we have not finalized the proposed requirement that certified application counselors must comply with applicable state law related to certified application counselors as a condition of certification, because some state laws may limit the organizations and individuals that are eligible to be designated organizations and certified application counselors. We note that Section 1321(d) of the Affordable Care Act provides that state laws that do not prevent the application of the provisions of title I of the Affordable Care Act are not preempted.

Comment: Several commenters requested clarification regarding how this rule interacts with state insurance and other regulation.

Response: Section 1321(d) of the Affordable Care Act specifies that state law that does not prevent the application of the provisions of title I of the Affordable Care Act will not be preempted.

Comment: A commenter asked about the role of the Exchange in training and oversight of certified application counselors and about indemnification of certified application counselors.

Response: This final rule, in § 155.225(e) (renumbered from paragraph (c) of the proposed rule) requires the Exchange to perform certain oversight duties, such as withdrawing certification from noncompliant designated organizations. Each Exchange will have flexibility in how it performs their oversight duties. It also requires designated organizations to agree that their staff members and volunteers who are application counselors will meet all of the requirements of § 155.225, and that the designated organizations will withdraw certification from noncompliant certified application counselors. We believe that the approach taken in the final rule will create stronger oversight of individual certified application counselors, as the organizations that oversee them are in a better position to monitor their actions. Additionally, as described elsewhere in this preamble, we anticipate that the organizations designated by Exchanges will be organizations that already have processes in place to protect sensitive and personally identifiable information. State Exchanges that take the option of certifying individual certified application counselors must withdraw certification from noncompliant application counselors pursuant to § 155.225(e)(2). Further, certified application counselors will enter into agreements with the certifying entity, whether they are certified directly by a State Exchange or certified by an organization designated by the Exchange, agreeing to comply with the standards and requirements for certified application counselors.

The final rule, like the proposed rule, does not require the Exchange to indemnify certified application counselors or their organizations.

Comment: A commenter asked that certification and compliance agreements for certified application counselors be at the federal rather than state level for multi-employer plans because such plans are subject to federal regulation under ERISA, the Internal Revenue Code, and the Taft-Hartley Act and are not subject to state insurance regulation.

Response: Each Exchange is responsible for directly certifying or designating the organization certifying individual application counselors. Therefore, the Exchange must administer the designation and certification, as applicable, and any accompanying agreement. Organizations certifying their staff members and volunteers as certified application counselors will administer the certification process and the agreement.

Comment: Many commenters addressed the proposed training standards in § 155.225(b)(2) (renumbered paragraph (d)(1) in the final rule). A large number recommended that training include specific components on a variety of topics, including how to provide accessible services to individuals with disabilities; applicable civil rights laws; advance payments of the premium tax credit and cost-sharing reductions; providing referrals to other assistance programs; how to assist other underserved communities such as LGBT people, low-income people, and people of color; conflicts of interest; transacting insurance; and preventing and detecting fraud.

Response: Section 155.225(d)(1) in the final rule requires training that covers several of these topics, and we expect that Exchanges will train certified application counselors on the various applicable regulatory standards. Because these standards are more

limited than those of Navigators and non-Navigator assistance personnel, we expect that the training course for certified application counselors will be more limited.

Comment: Some commenters proposed the idea of periodic recertification or review of certification to ensure continued qualification, and a couple of commenters asked about refresher trainings or continuing education requirements. A number of commenters suggested that certified application counselors take the same certification examination that is required of certain Navigators and non-Navigator assistance personnel in § 155.215(b)(1).

Response: We agree that certified application counselors, like Navigators, should complete and achieve a passing score on a certification examination. We have amended § 155.225(d)(1) (renumbered from paragraph (b)(2) in the proposed rule) to reflect this requirement. We expect to issue guidance on recommended recertification and continuing education for certified application counselors in Federally-facilitated Exchanges.

Comment: A few commenters recommended that certified application counselors should not be required to duplicate training they already have, such as HIPAA confidentiality rules or Medicaid/CHIP.

Response: The Federally-facilitated Exchanges, at the request of State Medicaid and CHIP agencies, will deem staff members and volunteers of organizations designated by state Medicaid or CHIP agencies to have completed the Exchange's training modules on Medicaid and CHIP. State Exchanges may also deem such staff members and volunteers to have completed the Exchange's training modules on Medicaid and CHIP. Other certified application counselors must fulfill all training requirements in order to be certified.

Comment: A number of commenters recommended that certified application counselors go through the same or similar training and certification as Navigators and non-Navigator assistance personnel. Other commenters suggested that certified application counselors could have an abbreviated training program because many certified application counselors will be volunteers.

Response: We do not require certified application counselors to learn all of the training content required by Navigators and non-Navigator assistance personnel, as some of that content is not applicable to certified application counselors. For example, certified application counselors will not receive training on the appropriate use of federal funds since certified application counselors would not necessarily receive such funding. We believe that the topics required by the final rule for certified application counselor training balance the need for informed, trained certified application counselors with the scope of their duties.

Comment: In the preamble to the proposed rule, we indicated that a state can develop a single set of core training materials that can be utilized by Navigators, agents and brokers, and certified application counselors. Several commenters asked that we encourage this or include it in the final rule.

Response: We do not require, but encourage states running State Exchanges to develop a single set of core training materials, which it can tailor for each of its consumer assistance programs. This strategy will create efficiencies and ensure that all assistance personnel in a state receive consistent, comprehensive training. Additionally, HHS will share its training modules with states, which can be modified or used in full or in part by interested states.

Comment: Numerous commenters recommended that federal training and support materials be made available to a variety of audiences, including states, Indian health providers and tribal application counselors, as well as the public.

Response: We agree that making federal certified application counselor training materials publicly available will be beneficial to a variety of individuals and groups, including people who wish to assist family members, friends, or other community members with finding affordable health coverage. Therefore, HHS intends to make a version of its training program for Navigators, non-Navigator assistance personnel, and certified application counselors available to the general public. Anyone would be able to take this training. However, unless a person is certified as an application counselor by a designated organization or a State Exchange that opts to certify individual certified application counselors directly, that person may not present himself or herself to the public as a certified application counselor. We encourage State Exchanges to make their training available to the general public as well, and we note that HHS's training will be available online to individuals in all states, including states with State Exchanges.

Comment: A number of commenters requested that the certified application counselor training be conducted online and several asked that training and certification be provided at no cost.

Response: To encourage participation by community-based organizations, community health centers and others, we believe it is important that Exchanges make certified application counselor training available online and at no cost to persons taking the training. HHS intends to conduct its training program for certified application counselors in Federally-facilitated Exchanges on-line and at no cost either to the person taking the training, or to their organization.

Comment: A few commenters recommended that states with Federally-facilitated Exchanges or State Partnership Exchanges be able to establish training programs in addition to those established by a Federally-facilitated Exchange.

Response: A state with a Federally-facilitated Exchange or State Partnership Exchange is welcome to make state-specific training materials available to interested certified application counselors and their organizations. As discussed above, the Federally-facilitated Exchange or State Partnership Exchange may designate organizations, and the organizations may certify individual certified application counselors that meet the requirements in § 155.225. States, if they wish, may have additional training requirements that do not prevent the application of the requirements of § 155.225.

Comment: One commenter asked that we make training available well before open enrollment.

Response: HHS is in the process of finalizing the training program for certified application counselors in Federally-facilitated Exchanges, including State Partnership Exchanges, and we intend to make it available with sufficient time for certified application counselors to be trained before open enrollment.

Comment: One commenter suggested that certified application counselors should participate in the routine information-sharing sessions that the commenter recommended for Navigators and non-Navigator assistance personnel.

Response: HHS is continuing to develop the kinds of technical assistance it will provide to Exchange consumer assistance personnel in Federally-facilitated Exchanges. HHS intends to issue future guidance on opportunities for these assistance personnel and organizations to share experiences and best practices. We encourage State Exchanges to make similar opportunities available for

assistance personnel serving their consumers.

Comment: Several commenters noted that the requirements at § 155.215(a)(1)(iv)(B) and § 155.215(a)(2)(v)(B) for disclosure of existing or former employment relationships, including those of a spouse of domestic partner, with health insurance or stop loss issuers or their subsidiaries could be burdensome for large organizations like large health systems if these standards were also applied to certified application counselors.

Response: It is important to note that under § 155.225(d)(2) (renumbered from paragraph (b)(3) in the proposed rule), the disclosure burden is on the individual certified application counselor, not the designated organization. We agree that it would be impractical to require designated organizations to disclose the existing or former employment relationships of all their employees and volunteers. Certified application counselors will be responsible for disclosing only their own potential conflicts of interest, including any relationships with QHPs or insurance affordability programs.

Comment: We received support for proposed § 155.225(b)(4) (renumbered as § 155.225(d)(3)) that certified application counselors comply with the privacy and security standards established for the Exchange under § 155.260. We also received a suggestion that certified application counselors certified by the Exchange should comply with Medicaid confidentiality standards.

Response: We are finalizing the proposed provision requiring compliance with the Exchange's privacy and security standards at § 155.225(d)(3) of the final rule (proposed as § 155.225(b)(4)). Certified application counselors who are certified by Medicaid or CHIP agencies, including those certified by both Medicaid and CHIP agencies and the Exchange or an Exchange-designated organization, will be subject to the Medicaid confidentiality requirements applicable to the Medicaid certified application counselor program at 42 CFR 435.908(c)(iii). However, that provision references rules designed to govern the actions of state Medicaid agencies and is not relevant for enrollment in a QHP through the Exchange. Therefore, we have not adopted those rules here.

Comment: In § 155.225(b)(5), we proposed that certified application counselors must agree to act in the best interest of the applicants assisted. The majority of commenters who addressed this provision asked us to hold certified application counselors to the same fairness and impartiality standard as Navigators.

Response: The final rule does not modify this provision. We have renumbered it as § 155.225(d)(4) in the final rule; it requires that certified application counselors act in the best interest of the applicants assisted. We believe this standard achieves our program goal of providing readily available consumer-focused assistance. When read in conjunction with the training and conflict of interest disclosure standards for certified application counselors, the best-interest provision helps ensure that a certified application counselor provides information and assistance to a consumer that will enable the consumer to make the most appropriate choice for himself or herself. This means that, regardless of any relationships a certified application counselor may have with QHPs or insurance affordability programs, the certified application counselor must help consumers choose coverage that best meets all of the consumer's needs.

Comment: We received comments both supporting and expressing concerns about the language in proposed § 155.225(b)(7) (renumbered as § 155.225(b)(6) in this final rule) which would require certified application counselors to provide information with reasonable accommodations for those with disabilities. Many commenters suggested that the language should be expanded to include providing assistance in a culturally and linguistically appropriate manner. Some commenters requested that certified application counselors be allowed to meet this requirement by referring applicants to local Navigators or non-Navigator assisters.

Response: We agree that providing information in a manner that is accessible for people with disabilities is important to a certified application counselor's ability to provide effective assistance and act in the consumer's best interest. Some commenters expressed concerns that accommodations for persons with disabilities may be costly or burdensome for small organizations or volunteers. We have therefore amended proposed § 155.225(b)(7), renumbered in the final rule as § 155.225(d)(5), to clarify that the requirement that certified application counselors provide information in a manner that is accessible to individuals with disabilities may be satisfied either directly or through an appropriate referral to a Navigator, non-Navigator assistance personnel authorized under §§ 155.205(d) and (e) and/or 155.210, or to the Exchange's call center. For example, if a consumer with a visual limitation seeks assistance from a certified application counselor who does not have the appropriate auxiliary aids to assist the consumer, such as materials in large print or Braille, or a modified computer keyboard and monitor, the certified application counselor may refer the consumer to a geographically accessible Navigator or non-Navigator assistance personnel whom the certified application counselor has reason to believe will be able to assist the consumer, or to the Exchange's call center.

Additionally, this subparagraph of the proposed rule included a reference to the Americans with Disabilities Act, and for clarity we have finalized that reference and included a reference to section 504 of the Rehabilitation Act, as well as citations to those provisions.

We are not expanding this rule to impose CLAS requirements on certified application counselors. However, we expect certified application counselors to provide appropriate referrals to geographically accessible Navigators, non-Navigator assistance personnel, and/or the Exchange call center, if the certified application counselor is unable to assist a consumer with limited English proficiency.

We note that many organizations are already required by federal, state, and local laws to provide accessible and appropriate services to the individuals they serve. For example, failure by a recipient of federal financial assistance to provide services consistent with Standards 5 through 8 of the National Standards for Culturally and Linguistically Appropriate Services in Health and Health Care could result in a violation of Title VI of the Civil Rights Act of 1964 and HHS's regulation implementing that statute (See 42 U.S.C. 2000d et seq. and 45 CFR Part 80). Similarly, certain public entities and public accommodations must provide accessible spaces and services in compliance with the Americans with Disabilities Act and section 504 of the Rehabilitation Act. Certified application counselors must continue to meet their existing federal, state, and local obligations to provide consumers with information that is culturally and linguistically appropriate and accessible for those with disabilities. We therefore expect that because of these requirements, some certified application counselors will already be prepared to provide information in a manner that is culturally and linguistically appropriate to the applicants they serve.

In addition, as discussed earlier, organizations already providing assistance with applications and enrollment in health insurance plans and insurance affordability programs or other social service programs to diverse populations are encouraged to become certified to certify application counselors. Such organizations are likely to have familiarity with the communities intended to be served by the Exchange. Although outreach is not a required function of the certified application counselor program, many organizations will already have outreach procedures in place, as well as information about the demographics of the communities they serve.

2. Withdrawal of Certification § 155.225(e) (Renumbered From § 155.225(c) in the Proposed Rule)

We proposed that the Exchange must establish procedures to withdraw certification from individual certified application counselors or from all certified application counselors associated with a particular organization when it finds noncompliance with the terms and conditions of the certified application counselor agreement.

Comment: Commenters were generally supportive of proposed § 155.225(c), which provided for the withdrawal of certification from noncompliant certified application counselors. One commenter asked whether the actions of one individual or organization would trigger withdrawal of certification, or whether the Exchange would need to see a pattern of noncompliance.

Response: We note that the final rule, in § 155.225(e), provides that the Exchange must establish procedures to withdraw designation from a particular organization for non-compliance with the terms and conditions of the organization's agreement with the Exchange under § 155.225(b)(1)(i); each State Exchange that directly certifies individual certified application counselors must establish procedures to withdraw that certification when it finds noncompliance with the requirements of § 155.225; and each certified organization must establish procedures to withdraw certification from individual application counselors when it finds they have not complied with the requirements of § 155.225, including the standards specified in paragraphs (d)(3) through (d)(5). These changes to the final rule track the changes we have made to the program structure, such that each entity responsible for certifying or designating has the responsibility to ensure that the standards associated with that certification or designation are upheld, and to remove that certification or designation when the standards have been violated. Each Exchange and each organization has the flexibility to establish its own procedure for withdrawal of certification and/or designation, as applicable. HHS intends to issue guidance on the procedure that will apply in Federally-facilitated Exchanges.

Comment: Some commenters also had additional oversight proposals. Some recommended that we require routine performance monitoring and oversight to ensure that counselors provide quality services, comply with minimum standards, and serve the best interest of consumers. Several suggested that performance metrics should include examining enrollment patterns to detect steering. Commenters also requested clarification regarding the monitoring and oversight of certified application counselors, including identification of the entity responsible for monitoring, specificity about the complaint process if a consumer has a bad experience with a certified application counselor, and information about accountability for errors made by certified application counselors. One commenter suggested that HHS consider imposing civil money penalties against certified application counselors who violate their agreements. A few commenters asked that HHS not rigidly rely on background checks to disqualify individuals from participation.

Response: HHS plans to implement several processes through which Federally-facilitated Exchanges and State Partnership Exchanges may oversee the activities of certified application counselors. First, HHS has proposed to develop a casework tracking system through which consumer complaints, including those related to certified application counselors, can be monitored. (See proposed § 156.1010 in 78 FR 37032 (June 19, 2013).) Furthermore, § 155.225(a)(2) requires certified organizations to maintain a registration process and method to track the performance of certified application counselors.

3. Availability of Information; Authorization (§ 155.225(f) (Renumbered From Paragraph (d) in the Proposed Rule))

In paragraph (d) of the proposed rule, we proposed that the Exchange must establish procedures to ensure that applicants are informed of the functions and responsibilities of certified application counselors and that applicants authorize the disclosure of their information to a certified application counselor.

Comment: Several commenters suggested specifying that Exchanges should maintain a current registry on the Exchange Web site of certified application counselors or all assistance personnel. Another commenter suggested that counselors display a certificate or badge.

Response: To ensure that consumers are able to seek out appropriate assistance, HHS will maintain on its Web site a public registry of consumer assistance options in each Federally-facilitated Exchange, including Navigators, non-Navigators, and certified application counselor organizations. We expect that, based on the organization's agreement with the Federally-facilitated Exchange, the organization will ensure that individuals and employees who call that organization for certified application counselor assistance will be connected with a certified application counselor. The final rule does not specify that State Exchanges must maintain a similar public registry, although we encourage it.

Comment: Commenters were supportive of proposed § 155.225(d)(2), under which Exchanges would establish a procedure for applicants to authorize the disclosure of their application information to the certified application counselors. Some commenters emphasized the importance of the confidentiality of consumer information by requesting that certified application counselors be trained on confidentiality requirements.

Response: For certified application counselors to comply with the privacy and security requirements specified in § 155.225(d)(3), they must receive training on protecting the confidentiality of consumer information. Additionally, due to commenters' emphasis on the importance of confidentiality, we revise the requirements in final paragraph (f) to clarify that an applicant or enrollee's authorization must be provided prior to the certified application counselor's obtaining access to the applicant's or enrollee's personally identifiable information, that the organization or application counselor must maintain a record of the authorization, and that the applicant or enrollee must be able to revoke their authorization at any time.

4. Fees § 155.225(g) (Renumbered From Paragraph (e) in the Proposed Rule)

In paragraph (e) of the proposed rule, we proposed that certified application counselors may not impose any charge on applicants for application assistance.

Comment: Several consumer advocacy organizations supported the prohibition on charging applicants for application assistance. Additional comments included a question about whether certified application counselors would be permitted to receive fees for other functions, such as enrollment assistance, and a suggestion that we prohibit certified application counselors from imposing other conditions on the receipt of application assistance, such as requiring that those requesting assistance undergo certain health care services or fill out other unrelated paperwork.

Response: Counselors may not impose additional conditions on the receipt of application assistance. We see no distinction between charging for application assistance and charging for enrollment assistance, and the final rule therefore clarifies that we would prohibit both, by adding language explaining that certified application counselors may not impose any charge on applicants for application or other assistance.

5. Summary of Regulatory Changes

We are finalizing the provisions proposed in § 155.225 of the proposed rule, with the following modifications:

We revise paragraph (a) to clarify that each Exchange must have a certified application counselor program. We no longer require that each Exchange certify the staff of Exchange-designated organizations and organizations designated by state Medicaid and CHIP agencies pursuant to 42 CFR 435.908. We move the certified application counselor duties to paragraph (c).

We re-designate proposed paragraph (b) ''Standards of certification'' as revised paragraph (d) ''Standards of certification.'' We add new paragraph (b) ''Exchange designation of organizations.'' Subparagraph (b)(1) allows an Exchange to designate an organization, including an organization designated as a Medicaid certified application counselor organization by a state Medicaid or CHIP agency, to certify its staff members or volunteers to act as certified application counselors who perform the duties and meet the standards and requirements for certified application counselors set forth in this section. Subparagraphs (b)(1)(i) and (ii) require the designated organization to enter into an agreement with the Exchange to comply with the standards and requirements of this section including the standards specified in subparagraphs (d)(3) through (d)(5); and requires it to maintain a registration process and method to track the performance of certified application counselors.

Revised paragraph (b)(2) allows an Exchange the option of fulfilling the requirements of revised paragraph (a) by designating organizations to certify application counselors in compliance with paragraph (b)(1); directly certifying individual staff members or volunteers of Exchange designated organizations to provide the duties specified in paragraph (c) if the staff member or volunteer enters into an agreement with the Exchange to comply with the standards for certified application counselors in this section; or by a combination of subparagraphs (b)(2)(i) and (b)(2)(ii).

Revised paragraph (c) ''Duties'' states that certified application counselors are certified to: Provide information to individuals and employees about the full range of QHP options and insurance affordability programs for which they are eligible; assist individuals and employees to apply for coverage in a QHP through the Exchange and for insurance affordability programs; and help to facilitate enrollment of eligible individuals in QHPs and insurance affordability programs.

We revise the standards of certification in paragraph (d) (redesignated from paragraph (b) in the NPRM) to allow a designated organization, or an Exchange utilizing the option in § 155.225(b)(2)(ii), to certify a staff member or volunteer to perform the duties specified in subparagraph (c) only if the staff member or volunteer complies with the regulatory standards which we finalize and re-designate from the proposed rule, and enters into an agreement with the organization regarding compliance with the standards specified in paragraphs (d), (f), and (g). We revise paragraph (b)(1), that individual certified application counselors register with the Exchange, by requiring that individual certified application counselors register with the designated organization. In paragraph (d)(1) we finalize the requirement that a staff member or volunteer seeking certification to complete Exchange approved training. We have amended § 155.225(d)(1) (renumbered from paragraph (b)(2) in the proposed rule) to reflect the requirement that certified application counselors, like Navigators, should complete and achieve a passing score on a certification examination. We finalize the requirement in paragraph (d)(2) that requires a staff member or volunteer seeking certification to disclose to potential applicants any relationships the counselor has with QHPs, insurance affordability programs, or other conflicts of interest, and revise paragraph (d)(2) to specify that the disclosure must also be made to the designated organization, or to the Exchange if directly certified by the Exchange. In paragraph (d)(5), we revise the redesignated paragraph (b)(7) to provide more specificity as to the requirement to provide information in a manner that is accessible to individuals with disabilities and to clarify that this may be done either directly or through appropriate referral. We redesignate paragraph (b)(8) as (d)(6) and add that the certified application counselor's agreement must include compliance with paragraphs (f) and (g).

We re-designate and revise paragraph (e) ''Withdrawal of designation and certification'' to require the Exchange to establish procedures to withdraw designation from a particular organization it has designated under paragraph (b), when it finds noncompliance with the terms and conditions of the organization's agreement required by paragraph (b)(1) or (b)(2). In subparagraph (b)(2), we require Exchanges that directly certify application counselors to establish procedures to withdraw certification from individual certified application counselors when it finds noncompliance with the requirements of this section. In subparagraph (b)(3), we require an organization designated by the Exchange to establish procedures to withdraw certification from individual certified application counselors when it finds noncompliance with the requirements of this section.

Re-designated and revised paragraph (f) requires an organization designated by the Exchange, or, if applicable, an Exchange that certifies staff members or volunteers of organizations directly, to establish procedures to ensure that applicants: Are informed of the functions and responsibilities of certified application counselors; provide authorization prior to a certified application counselor obtaining access to an applicant's personally identifiable information, and that the organization or certified application counselor maintains a record of the authorization provided; and, in new subparagraph (f)(3), may revoke at any time the authorization provided.

Re-designated and revised paragraph (g) prohibits organizations designated by the Exchange and certified application counselors from charging applicants for application or other assistance related to the Exchange.

III. Collection of Information Requirements

Under the Paperwork Reduction Act of 1995, we are required to provide 30-day notice in the **Federal Register** and solicit public comment before a collection of information requirement is submitted to the Office of Management and Budget (OMB) for review and approval. In order to fairly evaluate whether an information collection should be approved by OMB, section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (PRA) requires that we solicit comment on the following issues:

- The need for the information collection and its usefulness in carrying out the proper functions of our agency.
- The accuracy of our estimate of the information collection burden.
- The quality, utility, and clarity of the information to be collected.
- Recommendations to minimize the information collection burden on the affected public, including automated collection techniques.

In the January 22, 2013 (78 FR 4594) proposed rule, and the April 5, 2013 (78 FR 20581) proposed rule, we requested public comment on each of the rule's information collection requirements (ICRs). The comments and our responses to them are discussed below.

The information collection requirements in § 155.225 were originally proposed in the January 22, 2013 (78 FR 4594) Notice of Proposed Rulemaking (Medicaid, Children's Health Insurance Programs, and Exchanges—CMS–2334–P). These requirements are being finalized in this Final Rule (Standards for Navigators and Non-Navigator Assistance Personnel; Consumer Assistance Tools and Programs of an Exchange and Certified Application Counselors—CMS–9958–F and CMS–2334–F2). Comments received in response to the proposed rule are also being addressed in this final rule.

This final rule will establish conflict of interest and training standards, including standards for certification and recertification, for Navigators and non-Navigator assistance personnel in an Exchange being operated by HHS as a Federally-facilitated Exchange or as a State Partnership Exchange pursuant to HHS authority under section 1321(c)(1) of the Affordable Care Act, and for non-Navigator assistance personnel in State-based Exchanges that are funded through federal Exchange Establishment grants. The rule requires that these Navigators and non-Navigator assistance personnel provide an attestation that they are not ineligible individuals or entities and submit a plan for mitigating conflicts of interest, register with the Exchange, receive training, be initially certified, and receive subsequent recertification with the Exchange.

Additionally, this final rule will establish certified application counselors as another type of assistance personnel available to provide information to consumers and facilitate their enrollment in QHPs and insurance affordability programs. This rule outlines the requirements for organizations designated by the Exchange to certify staff members and volunteers as certified application counselors and describes the duties of and standards for certified application counselors. The rule requires an organization seeking designation from the Exchange to agree to comply with the applicable standards and requirements of § 155.225 as well as maintain a registration process and method to track its certified application counselors. Individual certified application counselors at an organization designated by the Exchange must enter into an agreement with the designated organization to comply with certain standards set forth in the rule. The rule directs designated organizations to establish procedures to withdraw certification from noncompliant certified application counselors as well as to establish procedures to ensure that applicants are informed of the functions and responsibilities of certified application counselors, and provide authorization for the disclosure of applicant information to the certified application counselor. The rule also prohibits application counselors and organizations designated by the Exchange from imposing any charge on applicants for application assistance.

Section III.A outlines information collection requirements associated with disclosure of conflicts of interest under § 155.215(a). These disclosures include an attestation regarding eligibility to be a Navigator or non-Navigator assistance personnel to which § 155.215 applies; a plan for mitigating conflicts of interest; a requirement to provide information to consumers about their coverage options; and a requirement to disclose other potential, non-prohibited, conflicts of interest. Section III.B outlines information collection requirements associated with Navigator and non-Navigator assistance program registration, certification, and recertification requirements under § 155.215(b). Sections III.C through E outline information collection requirements associated with the certified application counselor assistance program requirements, including designated organizations and individual application counselor certification processes, as well as training, recordkeeping, disclosures, and designation or certification withdrawal requirements.

For purposes of the information collection requirements, Navigator personnel and non-Navigator assistance personnel to which § 155.215 applies are estimated to have a professional wage of $20 per hour.[9] Navigator and non-Navigator assistance project leads to which § 155.215 applies are estimated to have a professional wage of $29 per hour.[10] Navigator senior executives to which § 155.215 applies are estimated to have a professional wage of $48 per hour.[11] The average professional wage for Navigator personnel, projects leads, senior executives, and non-Navigator assistance personnel and project leads to which § 155.215 applies is estimated to be $29.20 per hour. These are estimates commonly used for estimating paperwork burden and do not represent a recommendation or a requirement of how much Navigator and non-Navigator personnel to which § 155.215 applies are to be paid. There is nothing in the regulations released today that would require any of these workers to be paid any specific amount.

At this time we are unable to estimate the number of Navigator grantees and applicants or the number of non-Navigator assistance personnel and project leads to which § 155.215 applies; therefore the estimates discussed below are on a per individual basis. The application deadline for Navigator grants closed on June 7, 2013. At this time, grant applications are still undergoing review and it is not known how many applications meet all eligibility criteria to be considered for grant awards. Without this information it is not possible to appropriately estimate how many grants will be awarded, or how many individual staff will be serving the grantees. It is also not possible to estimate the number of non-Navigator assistance personnel and project leads to which § 155.215 applies.

[9] These positions are estimated to be equivalent to a GS–9 position with the Federal government. *See http://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/2012/general-schedule/gs_h.pdf.*

[10] These positions are estimated to be equivalent to a GS–12 position with the Federal government. *See http://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/2012/general-schedule/gs_h.pdf.*

[11] These positions are estimated to be equivalent to a GS–15 position with the Federal government. *See http://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/2012/general-schedule/gs_h.pdf.*

This is a new program without a comparable program to extrapolate estimates from. Exchanges may structure and fund these personnel in many different ways, and we do not want to underestimate and prejudice an Exchange from attempting to maximize the number of non-Navigator assistance personnel. We invited public comments on the number of Navigator grantees or the number of non-Navigator assistance personnel and project leads expected, but no comments were received on this issue. Additionally, because we do not have an estimate of how many Navigators or non-Navigator assistance personnel will be subject to § 155.215, we are unable to estimate the number of consumers expected to receive assistance specifically from Navigator grantees or non-Navigator assistance personnel subject to § 155.215; therefore estimates for disclosures to consumers discussed below are on a per consumer basis. We also invited comments on the number of consumers expected to receive assistance, but no comments were received on this issue.

A. ICRs Regarding Disclosure of Conflicts of Interest (§ 155.215(a))

In accordance with § 155.215(a)(1)(i) and (iv) and (a)(2)(ii) and (v), Navigator program grantees and other entities and individuals providing assistance under § 155.205(d) and (e) will be required to disclose conflicts of interest. This disclosure will include an attestation that an individual or entity is not an ineligible entity. Additionally, in accordance with § 155.215(a)(1)(ii) and (a)(2)(iii), a plan for mitigating any conflicts of interest will also be submitted. The cost associated with the attestation will apply to each Navigator entity and applicant, and to each individual or entity serving as non-Navigator assistance personnel. The cost associated with the plan for mitigating any conflicts of interest will apply to each Navigator program grantee and to each individual or entity serving as non-Navigator assistance personnel.[12] The attestation and mitigation plan are one-time requirements.

We estimate it will take Navigator personnel, project leads, senior executives, non-Navigator assistance personnel, and non-Navigator assistance project leads 0.25 hours (15 minutes) each to prepare and provide the attestation that they are an eligible entity. With a wage of $20 per hour for Navigator and non-Navigator personnel, $29 per hour for Navigator and non-Navigator project leads, and $48 per hour for senior executives, we estimate the cost burden per Navigator personnel is $5, per Navigator project lead is $7.25, per Navigator senior executives is $12, per non-Navigator assistance personnel is $5, and per non-Navigator assistance personnel is $7.25. We estimate the total burden per person is 0.25 hours and $7.30 on average.

The plan for mitigating conflicts of interest will be required on a per entity basis;[13] therefore we assume for Navigator program grantees, the senior executive will be responsible for developing and providing the plan for mitigating conflicts of interest because only one plan is required per grantee. For purposes of the ICR we are assuming burden and cost estimates based on a non-Navigator assistance project lead wage of $29 per hour.

We estimate that for a Navigator program grantee it will take a senior executive up to 5 hours to prepare and provide a plan for mitigating conflicts of interest. A non-Navigator assistance project lead will also require up to 5 hours to prepare and provide a plan for mitigating conflicts of interest. With a wage of $48 per hour for senior executives and $29 per hour for non-Navigator assistance project leads, we estimate the total one-time annual cost burden for a Navigator program grantee is $240, and for non-Navigator assistance project leads is $145.

In accordance with § 155.215(a)(1)(iii) and (a)(2)(iv), Navigator program grantees and non-Navigator assistance personnel will be required to provide information to consumers about the full range of QHP options and insurance affordability programs for which they are eligible. We assume for the Navigator program grantee that the Navigator personnel will prepare the disclosure, including completion of any necessary forms, and we estimate the total burden per disclosure, including completion of any necessary forms, is 1 hour at a cost of $20. For non-Navigator assistance personnel we estimate the total burden per disclosure is 1 hour for preparing the disclosure at a cost of $20. We estimate the total burden per disclosure is 1 hour and $20 on average.

In accordance with § 155.215(a)(1)(iv) and (a)(2)(v), Navigator personnel, projects leads, senior executives, non-Navigator assistance personnel, and non-Navigator assistance project leads will be required to disclose to the Exchange and to consumers: Any lines of insurance business not covered by the restrictions on participation and prohibitions on conduct in § 155.210(d), which they intend to sell while carrying out the consumer assistance functions; any existing and former employment relationships within the last five years with any health insurance issuers or issuers of stop loss insurance or subsidiaries of health insurance issuers or issuers of stop loss insurance; any existing employment relationships between a spouse or domestic partner and any health insurance issuers or issuers of stop loss insurance or subsidiaries of health insurance issuers or issuers of stop loss insurance; and any existing or anticipated financial, business, or contractual relationships with one or more health insurance issuers or issuers of stop loss insurance, or subsidiaries of health insurance issuers or issuers of stop loss insurance. We estimate the total time to prepare this disclosure is 0.16 hours (10 minutes). We estimate the total cost for preparing this disclosure per Navigator personnel is $3.20, per Navigator project lead is $4.64, per Navigator senior executive is $7.68, per non-Navigator assistance personnel is $3.20, and per non-Navigator assistance project lead is $4.64. We estimate the total estimated burden per person is 0.16 hours and $4.67 on average.

B. ICRs Regarding Training and Certification Standards (§ 155.215(b))

1. Registration Prior to Training

In accordance with § 155.215(b)(1)(ii), Navigator personnel, project leads, senior executives, non-Navigator assistance personnel, and non-Navigator assistance project leads will be required to register with the Exchange prior to training. We estimate that it will take Navigator personnel, project leads, senior executives, non-Navigator assistance personnel, and non-Navigator assistance project leads each 0.25 hours (15 minutes) to register. With a wage of $20 per hour for Navigator and non-Navigator assistance personnel, $29 for Navigator and non-Navigator assistance project leads, and $48 for senior executives, we estimate the total cost burden for Navigator personnel is $5, for Navigator project leads is $7.25, for Navigator senior executives is $12, for non-Navigator assistance personnel is $5, and for non-Navigator assistance project leads is $7.25. We estimate the total burden per person is 0.25 hours and $7.30 on average.

2. Certification and Recertification

In accordance with § 155.215(b)(1), Navigator personnel, project leads, senior executives, non-Navigator assistance personnel, and non-Navigator

[12] The mitigation plan is required on an individual basis only if the individual is not working for an entity serving as non-Navigator assistance personnel.

[13] An individual could be serving as an entity.

assistance project leads will be required to complete a training program to obtain certification consisting of up to 30 hours of training including any approved certification exams. There are recordkeeping requirements associated with the certification and recertification provisions. Each person who receives training will be expected to obtain and maintain a record of certification. In accordance with § 155.215(b)(1)(iv), Navigator personnel, project leads, senior executives, non-Navigator assistance personnel, and non-Navigator assistance project leads who intend to continue beyond their initial period of performance will be required to be recertified on at least an annual basis. Each person who receives recertification will be expected to obtain and retain proof of recertification. We estimate that the time burden associated with maintaining proof of certification or recertification is 0.016 hours (1 minute); we assume proof will be maintained through electronic copies with minimal cost.

We estimate the total cost for maintaining proof of certification or recertification per Navigator is $0.32; per Navigator project lead is $0.48; per Navigator senior executive is $0.75; per non-Navigator assistance personnel is $0.32, and per non-Navigator assistance project lead is $0.48. In the initial year the requirement is to maintain proof of initial certification; in subsequent years the requirement will be to maintain proof of recertification. Because these requirements are the same time and cost burden we are categorizing them as one annual burden. We estimate the total annual burden for maintaining proof of certification or recertification is 0.016 hours and $0.47 on average.

TABLE 1—ANNUAL RECORDKEEPING AND REPORTING REQUIREMENTS, BY RESPONDENT

Regulation section(s)	OMB Control No.	Burden per response (hours)	Hourly labor cost of reporting ($) **	Labor cost of reporting per response ($)	Capital/ maintenance costs ($)
Conflict of Interest Attestation § 155.215(a)(1)(i) & (a)(2)(ii)	0938—New	0.25	29.20	7.30	0
Conflict of Interest Mitigation Plan § 155.215(a)(1)(ii) & (a)(2)(iii) Navigator Senior Executive	0938—New	5	48	240	0
Non-Navigator Assistance Project Lead	.....	5	29	145	0
Conflict of Interest Disclosure of Coverage Options § 155.215(a)(1)(iii) & (a)(2)(iv)	0938—New	1	20	20	0
Conflict of Interest Disclosure to Exchange and Consumers § 155.215(a)(1)(iv) & (a)(2)(v)	0938—New	.16	29.20	4.67	0
Training Registration § 155.215(b)(1)(ii)	0938—New	0.25	29.20	7.30	0
Certification and Recertification § 155.215(b)(1)	0938—New	0.016	29.20	0.47	0
Total	.....	11.67	.....	424.27	0

** The hourly cost of $29.20 in certain rows is an average of the professional wages estimated for Navigator personnel, project leads, senior executives, non-Navigator assistance personnel, and non-Navigator assistance project leads.

Comment: We received a few comments regarding the estimated wages; these comments generally stated an appreciation for an estimate of a livable wage; however the comments noted a concern that the wage estimates are unrealistic. No comments recommended specific wage estimates.

Response: We are not modifying the wage estimates in this final rule. The estimates are not mandatory wages and are not broken down based on the role geographic differences may play in setting actual wages. There is nothing in the regulations released today that would require any of these workers to be paid any specific amount. These are estimates commonly used for estimating paperwork burden and do not represent a recommendation or a requirement of how much Navigator and non-Navigator personnel are to be paid.

C. ICRs Regarding Certified Application Counselors (§ 155.225)

Section 155.225(a) of the regulation provides that each Exchange must have a certified application counselor program. Section 155.225(b)(1) provides that the Exchange may designate certain organizations to certify certain staff members or volunteers to act as certified application counselors. In accordance with § 155.225(b)(2), each Exchange may opt to comply with the requirement to establish a certified application counselor program under § 155.225 by designating organizations to certify individual application counselors, as the Federally-facilitated Exchange intends to do, directly certifying individual staff members and volunteers of organizations to provide certified application counselor duties if such individuals enter into an agreement with the State Exchange, as was proposed in the proposed rule, or by both designating organizations and directly certifying individuals. We are unable to estimate the number of State Exchanges that will opt to establish a certified application counselor program by designating organizations to certify their staff members or volunteers to act as certified application counselors. The burden estimates we provide, unless specified otherwise, are on a per Exchange basis.

Section 155.225(c) describes the duties of certified application counselors, which include providing information about insurance affordability programs and coverage options, assisting consumers with applications, and helping to facilitate enrollment and renewals. Section 155.225(d) establishes the standards that staff members and volunteers at organizations designated by the Exchange must meet in order to be certified application counselors. Sections 155.225(e), (f), and (g) provide additional standards governing the conduct of Exchanges, designated organizations and individual certified application counselors, including withdrawal of designation or certification requirements, as well as a prohibition on charging applicants or enrollees for application or other assistance related to the Exchange.

In our original burden estimates, we calculated the overall estimated burden associated with these provisions as 105 hours per Exchange. We did not provide a detailed breakdown of this estimate. Our proposed estimate did not include all of the burdens on the Exchange as well as on certified application counselors and organizations seeking designation to certify individual

application counselors. The proposed rule's estimates did not contemplate the finalized regulatory provisions. For example, our proposed estimates did not include either the impact on organizations seeking designation in Exchanges or the State Exchange option to certify directly application counselors, including entering into an agreement with the designated organization or with individual staff or volunteers. Therefore, while our overall proposed burden estimates pursuant to proposed § 155.225 were properly calculated, we note that the final rule reflects burden estimates based on the finalized regulation's requirements on all respondents. We provide more detailed estimates and explanation below.

D. ICRs Regarding Burdens on an Exchange (§ 155.225)

The burdens on each Exchange include the following: The time and effort necessary to establish a process for designating organizations seeking to certify their staff or volunteers as application counselors in accordance with § 155.225(b)(1); the time and effort necessary to develop training materials for the training described in § 155.225(d)(1); the time and effort necessary to develop the agreement identified in § 155.225(b)(1)(i); and the time and effort necessary to establish a withdrawal process in accordance with § 155.225(e). Additionally, in the event a State Exchange opts to perform direct certifications of individual application counselors in accordance with § 155.225(b)(2)(ii), there would be the time and effort necessary to certify individuals and to develop procedures for informing applicants of the functions of certified application counselors under § 155.225(f)(1) and authorizing disclosure of applicant information specified in § 155.225(f)(2).

First, in accordance with § 155.225(b)(1), each Exchange may designate organizations whose staff and volunteers will seek to become certified application counselors. Each Exchange including a State Exchange if it so chooses, may establish a process through which it designates organizations. HHS will establish this process in Federally-facilitated Exchanges, including all State Partnership Exchanges, and will designate organizations directly. While each State Exchange may choose its own process for implementing a certified application counselor program, HHS will create a single process for Federally-facilitated Exchanges, such as the development of a single model application and agreement that will be used by organizations applying for designation as well as procedures for withdrawal. We anticipate that this application will incorporate the agreement of the organization to adhere to the regulatory standards in this regulation.

The creation of an application and agreement and procedures for withdrawal by the Exchange are required on a one-time basis; we estimate that it will take 19 Exchanges [14] developing a designation process up to 20 hours to create a designation and withdrawal process in addition to creating a model application which will include a model agreement and be available online for Federally-facilitated Exchanges. For purposes of the cost burden, we estimate it will take a mid-level health policy analyst [15] up to 10 hours to draft an application and agreement, a senior manager [16] up to 5 hours for review and an attorney [17] up to 5 hours for legal review. We estimate the cost burden is $1,339.66 for each Exchange.

There are recordkeeping requirements associated with developing and maintaining a model application. 19 Exchanges establishing this process are expected to maintain a copy of the model application. We estimate that the time burden associated with maintaining a copy of the model application is 0.016 hours (1 minute); we assume a mid-level health policy analyst with a professional wage of $49.35 an hour will maintain the model application through electronic copies with minimal cost, which we estimate as $0.79 as a one-time requirement for the Exchange. We estimate the total cost burden is $1,340.45 for each Exchange establishing a process including recordkeeping.

The cost for 19 Exchanges establishing a process for designating organizations includes the time and effort with reviewing each organization's application and notifying the organization of the result of its review will apply to the Exchange for each organization that seeks to be designated. We anticipate that this application review will be a one-time requirement for the organization seeking designation. Therefore, we estimated the burden for reviewing the application on a per organization basis. We estimate that it will take the Exchange up to 1.16 hours to review and approve an application. For purposes of the cost burden, we estimate it will take a mid-level health policy analyst up to 1 hour and a senior manager up to .16 hours (10 minutes) to review. The estimated cost burden is $62.01 for each organization.

In accordance with § 155.225(b)(2), State Exchanges may opt to certify application counselors directly rather than designate certain organizations to do so, or they may do both. State Exchanges performing direct certification of individual certified application counselors may choose to develop a process through which each certified application counselor is certified, including developing an agreement by which the individual will agree to adhere to the standards specified in § 155.225. We estimate it will take 18 State Exchanges performing direct certifications of individual application counselors an average of 20 hours to create its own certification process and model agreement for certified application counselors, including verifying the individual's affiliation with an appropriate organization and issuing an identification number, if applicable, as well as procedures for providing authorization of applicant or enrollee information in accordance with § 155.225(f). For the purpose of the cost burden, we estimate it will take a mid-level health policy analyst 10 hours, at $49.35 an hour and a senior manager 10 hours, at $79.08 an hour to create this process. We estimate the cost burden for each State Exchange to create its own process is therefore $1,284.34.

In accordance with § 155.225(b)(1)(i), an Exchange that has established a process for designating organizations will enter into agreements with designated organizations; in the case of State Exchanges performing direct certifications as allowed under § 155.225(b)(2)(ii), the State Exchange will enter into an agreement with individual certified application counselors.. We estimate it will take a

[14] We estimate 19 Exchanges, including 18 State Exchanges (which includes Utah) and one Federally-facilitated Exchange, developing their own processes to designate organizations, rather than directly certifying individuals as provided under § 155.225(b). HHS will establish a single process in all Federally-facilitated Exchanges. We have proposed through rulemaking amendments to our regulations, that, if finalized as proposed, would permit Utah to operate a State Exchange for SHOP only.

[15] Using data from the U.S. Bureau of Labor Statistics, a mid-level health policy analyst (occupation no. 13–2031) is estimated to have a wage of $49.35, including the cost of fringe benefits calculated at 35 percent of salary.

[16] According to the U.S. Bureau of Labor Statistics, a senior manager (occupation no. 11–1021) is estimated to have a wage of $79.08, including the cost of fringe benefits calculated at 35 percent of salary.

[17] According to the U.S. Bureau of Labor Statistics, an attorney (occupation no. 23–1011) is estimated to have a wage of $90.15, including the cost of fringe benefits calculated at 35 percent of salary.

senior manager at the applicable Exchange up to 15 minutes (.25 hours) to enter into each agreement. We estimate the cost burden is $19.77 per agreement. There are recordkeeping requirements associated with this requirement. We expect that the Exchange will maintain a copy of each agreement. We estimate that the time burden associated with maintaining proof of the signed agreement is 0.016 hours (1 minute). We estimate the total cost for the Exchange to maintain proof of each agreement to be $1.27, for a total estimated cost burden of $21.04 per agreement.

In accordance with § 155.225(d)(1), certified application counselors must complete Exchange-approved training regarding QHP options and insurance affordability programs, eligibility, and benefits rules and regulations, and achieve a passing score on all Exchange-approved certification examinations, prior to functioning as a certified application counselor. It is expected that 19 Exchanges must therefore develop a training registration process and training materials for certified application counselors. In the preamble above, we encouraged states to develop a single set of training materials for Navigators, non-Navigator assistance personnel, and certified application counselors. We also explained that we will make federal certified application counselor training materials available to states. In light of this, our estimates for developing a training registration process and materials may be lower than the estimates used here with respect to State Exchanges that adopt federal training materials. Additionally, any Exchange may reuse training material used to train other assistance personnel, and may also use training materials that were developed by HHS for other types of assister training, including Navigator training. If 19 Exchanges did choose to create a separate training registration process and materials for certified application counselors, instead of adopting the efficiencies outlined above, we estimate it will take a training specialist [18] 10 hours at $26.64 an hour and a training and development manager [19] 5 hours at $64.43 an hour to develop a registration process and training materials for certified application counselors, for a total time burden of 15 hours. We estimate the cost burden for each Exchange developing its own process and materials is therefore $588.55.

In accordance with § 155.225(e), when appropriate, each Exchange will withdraw designation from an organization when it finds noncompliance with the terms and conditions of the organization's application counselor agreement. In addition, a State Exchange that performs direct certification of individual certified application counselors will withdraw certification from individuals when it finds noncompliance. In either case, the Exchange will investigate instances of noncompliance it identifies or that are reported, and notify the appropriate organization, or individual, as applicable, when it determines noncompliance necessitates withdrawing the applicable entity's designation or individual's certification, as applicable. We are unable to estimate the frequency with which potential noncompliance will be reported or the frequency with which an Exchange will determine that an organization's or individual's designation or certification, respectively, should be withdrawn. Therefore, the estimates associated with the burden for determining the necessity for withdrawing an organization's designation or individual's certification are on a per occurrence basis for each applicable organization or individual, respectively.

We assume that each Exchange will investigate potential noncompliance and verify the basis for the withdrawal and notify the applicable entity of the withdrawal. There are recordkeeping requirements associated with these procedures. The Exchange is expected to maintain a record of each verification review and copy of any withdrawal notification. We estimate that the time burden associated with maintaining a record of each potential withdrawal occurrence is .016 hours (1 minute). We assume a mid-level health policy analyst with a professional wage of $49.35 an hour will maintain record and any notification of withdrawal electronically with minimal cost, which we estimate as $0.79 for each potential occurrence.

We estimate that it will take the Exchange up to 3 hours to investigate and notify an organization or individual, as applicable, of the withdrawal, respectively. For purposes of the cost burden, we estimate it will take a mid-level health policy analyst up to 2 hours to investigate, draft, and send notification of withdrawal and a senior manager up to 1 hour to review. We estimate that the printing/mailing costs per notice will be $0.50. We estimate the cost burden is $178.57 per Exchange for each occurrence.

E. ICRs Regarding Burdens on Designated Organizations and Certified Application Counselors (§ 155.225)

1. Burdens on Designated Organizations

Our proposed estimate of 105 hours also included several requirements that will fall on certified application counselors and designated organizations under the provisions of § 155.225. For example, with respect to designated organizations in Federally-facilitated Exchanges and certain State Exchanges, these include the time and effort for an organization to be designated by the Exchange to certify staff members and volunteers as application counselors in accordance with § 155.225(b)(1), including entering into an agreement in accordance with § 155.225(b)(1)(i); the time and effort required to maintain a registration process for certified application counselors in accordance with § 155.225(b)(1)(ii); the time and effort to establish procedures for withdrawing individual certified application counselors in accordance with § 155.225(e); and the time and effort of establishing procedures for providing authorization prior to a certified application counselor obtaining access to an applicant's or enrollee's personally identifiable information in accordance with § 155.225(f). Because we are unable to estimate the number of organizations that will seek designation at this time, the burden estimates on organizations are on a per organization basis.

In accordance with § 155.225(b)(1)(i), each organization designated by the Exchange must enter into an agreement with the Exchange. Registering and completing and submitting an application to be a designated organization will be done on a per organization basis; we estimate that it will take an organization up to 1 hour to review instructions, register, and complete and submit an application. For purposes of the cost burden, we estimate it will take a senior manager up to 1 hour. The estimated cost burden is $79.08 for each organization seeking designation.

In accordance with § 155.225(b)(1)(ii) and (d), each designated organization must maintain procedures for its staff or volunteers to act as certified application counselors. This is a one-time requirement for the organization. We estimate that it will take a mid-level health policy analyst up to 7 hours, a senior manager up to 2 hours and an

[18] According to the U.S. Bureau of Labor Statistics, a training specialist (occupation no. 13–1151) is estimated to have a wage of $26.64, including the cost of fringe benefits calculated at 35 percent of salary.

[19] According to the U.S. Bureau of Labor Statistics, a training and development manager (occupation no. 11–3131) is estimated to have a wage of $64.43, including the cost of fringe benefits calculated at 35 percent of salary.

attorney up to 1 hour for legal review to create such procedures. This process includes creating a registration process in accordance with § 155.225(b)(1)(ii),creating an agreement for individual staff or volunteers seeking to act as certified application counselors, in accordance with § 155.225(d); establishing procedures to withdraw certification from individual certified application counselors in accordance with § 155.225(e)(3); and establishing procedures for providing authorization to applicants and enrollees under § 155.225(f), for a total time burden of up to 10 hours. We estimate the cost burden associated with creating these procedures is $593.78. There are recordkeeping requirements associated with developing and maintaining a model agreement and authorization form, if the organization chooses to obtain authorization in writing. Each organization is expected to maintain a copy of the forms. We estimate that the time burden associated with maintaining a copy of the model agreement and authorization form is 0.016 hours (1 minute); we assume these will be maintained through electronic copies with minimal cost.

In accordance with § 155.225(b)(1), designated organizations must enter into an agreement with the Exchange regarding compliance with the standards set forth in § 155.225 by the staff and volunteers they certify as application counselors. We estimate it will take a senior manager at the organization up to .25 hours (15 minutes) to enter into each agreement. We estimate the cost burden is $19.77 per agreement. There are recordkeeping requirements associated with this requirement. We expect that the organization will maintain a copy of the agreement. We estimate that the time burden associated with maintaining proof of the signed agreement is 0.016 hours (1 minute). The total cost estimated for the organization to maintain proof of the signed agreement is $1.27, for a total cost burden of $21.04 per agreement.

In accordance with § 155.225(e)(1), our estimates include the time that it will take for an organization to review the applicable Exchange's notification of withdrawal of designation. We estimate it will take an organization up to 3 hours on average to review and inform its staff and volunteers that the organization is no longer designated to have staff or volunteers act as certified application counselors. For purposes of the cost burden, we estimate that it will take a senior manager up to 3 hours to review and inform staff and volunteers as needed. We estimate the cost burden is $237.24 for each occurrence.

2. Burdens on Individual Certified Application Counselors

The burdens associated with individual certified application counselors include the time and effort necessary to register in accordance with § 155.225(b)(1)(ii) or (b)(2)(ii), as applicable; enter into an agreement in which the individual agrees to comply with the standards set forth in § 155.225; provide authorization to applicants and enrollees in accordance with § 155.225(f); and take appropriate measures in the event the individual's certification is withdrawn by the Exchange or designated organization in accordance with § 155.225(e).

Although nothing prohibits individual certified application counselors or organizations from being funded through sources such as applicable private, state, or federal programs, we expect that certified application counselors will not be guaranteed any specific funding. We estimate the professional wage of certified application counselors [20] for this type of work as equivalent to that of an eligibility interviewer for assistance from government programs and agency resources. An eligibility interviewer has a professional wage of $26.65 per hour. This is an estimate commonly used for estimating paperwork burden and does not represent a recommendation or a requirement of how much certified application counselors are to be paid. The actual wages, if any, of individuals performing certified application counselor work may be lower or higher, depending on the person's primary profession.

There is no experience or strong basis for estimating the number of certified application counselors. Because such estimates are required for this purpose, solely for this analysis, we looked to the State Health Insurance Assistance Program (SHIP) counselor program created by section 4360 of the Omnibus Budget Reconciliation Act (OBRA) of 1990. The SHIP program uses large numbers of trained volunteers to help consumers navigate and enroll in health insurance plans and Medicare savings programs, such as the Qualified Medicare Beneficiary program. There are 15,250 SHIP counselors nationwide, and about 57 percent (or 8,692) of these counselors are volunteers.[21] As such, for purposes of analysis, we estimate that there will be approximately 8,700 certified application counselors nationwide, or an average of 170 per Exchange. We recognize that this is a new program so this estimate is speculative.

In accordance with § 155.225, individuals must be certified to act as certified application counselors. This includes the time and effort associated with completing a registration process through a designated organization, in accordance with § 155.225(b)(1)(ii) or through a State Exchange in accordance with § 155.225(b)(2)(ii) if the state requires a registration process; the time and effort associated with disclosing any relationships or conflicts of interest in accordance with § 155.225(d)(2); and entering into an agreement with the organization or State Exchange, as applicable, regarding compliance with the certified application standards in accordance with § 155.225(d)(6) or (b)(2)(ii), respectively. We assume that it will take a certified application counselor up to .25 hours (15 minutes) to register, provide adequate disclosures, and review and enter into an agreement. As stated above, we anticipate that most certified application counselors will perform certified application counselor functions on a volunteer basis; however, for purposes of estimating the cost burden on these respondents only, we estimate the cost burden for each individual certified application counselor is $6.66, based on a professional wage equivalent of $26.65. There are recordkeeping requirements associated with this requirement. We expect that the individual certified application counselor will maintain proof of the signed agreement. We estimate that the time burden associated with maintaining proof of the signed agreement is 0.016 hours (1 minute). We estimate the total cost for the individual to maintain the agreement will be $0.43, for a total cost burden of $7.09 per agreement.

In accordance with § 155.225(d)(1), certified application counselors must be trained regarding QHP options, insurance affordability programs, eligibility, and benefits rules and regulations governing all insurance affordability programs operated in the state, as implemented in the state, prior to functioning as a certified application counselor. There are recordkeeping requirements associated with the

[20] According to the U.S. Bureau of Labor Statistics, an eligibility interviewer (occupation no. 43–4061) is estimated to have a wage of $26.65, including the cost of fringe benefits calculated at 35 percent of salary.

[21] CMS National SHIP Resource Center, ''Welcome & Key CMS Initiatives,'' in CMS New SHIP Director Training 3 (7th ed., 2013).

training certification; we expect each person who receives training to obtain and maintain a record of training certification. We estimate that the time burden associated with maintaining proof of training certification is 0.016 hours (1 minute), since we assume that this proof will be maintained through electronic copies, at a minimal cost. The total cost estimated for each individual to maintain proof of training certification is $0.43.

In accordance with § 155.225(d)(2), certified application counselors must disclose to potential applicants and enrollees any relationships the certified application counselor or sponsoring organization has with QHPs or insurance affordability programs, or other potential conflicts of interest. In addition, under § 155.225(f)(1) and (2), certified application counselors must provide for an authorization to applicants and enrollees to inform them of the functions and responsibilities of certified application counselors and obtain authorization for the disclosure of applicant and enrollee information to a certified application counselor prior to obtaining the individual's personally identifiable information. Because we are unable to estimate the number of consumers a certified application counselor will assist in a year, we calculated this estimate on a per individual basis. We estimate it will take a certified application counselor 0.25 hours (15 minutes) to provide these disclosures each time. The total cost estimate for disclosures by each individual certified application counselor is therefore $6.66. In addition, although nothing in this rule requires individuals to provide authorization in the form of a signed authorization, there are recordkeeping requirements associated with maintaining a record of the authorization being provided by the applicant or enrollee. We estimate that the time burden associated with maintaining record of the authorization is 0.016 hours (1 minute). We estimate the total cost for the individual to maintain the record of authorization is $0.43, for a total cost burden of $7.09 per disclosure.

In accordance with the withdrawal provisions under § 155.225(e)(2) and (3), our estimates reflect the time and effort for an individual certified application counselor to review a notification of withdrawal of certification. We estimate it will take a certified application counselor up to 3 hours on average to review such notification, including the time and effort needed to inform any applicants who may be in the process of receiving or seeking assistance from the certified application counselor. For purposes of the cost burden, we estimate that it will take a certified application counselor up to 3 hours to review the notification of withdrawal from its designated organization, or for those certified directly by a State Exchange from the State Exchange, and inform applicants as needed. We estimate the cost burden is $79.95 for each occurrence of withdrawal.

F. Summary of Annual Burden Estimates

ANNUAL RECORDKEEPING AND REPORTING REQUIREMENTS

Regulation section(s)	Respondents	Responses (total)	Burden per response (hours)	Total annual burden (hours)	Labor cost of reporting ($)	Total Cost ($)
§ 155.225(b)(1) (Exchange[22] organization designation process).	19	19	20	380	1,339.66 (per respondent)	25,453.54
§ 155.225(b)(1) (designation forms recordkeeping).	19	19	.016	.30	.79 (per respondent)	15.01
§ 155.225(b)(1) (organization designation by Exchange).	1		1		79.08 (for one respondent)	
§ 155.225(b)(1) or (b)(2)(ii) (individual certification with organization or Exchange, respectively).	8,700	8,700	.25	2,175	7.09 (per certification)	61,683
§ 155.225(b)(1) or (b)(2)(i) (Exchange application review).	19		1.16	22.04	62.01 (per respondent)	1,178.19
§ 155.225(b)(1)(ii), (d)(6), (e) and (f) (designated organization process for staff or volunteers).	1		10		593.78 (per respondent)	
§ 155.225(b)(1)(i) or (b)(2)(ii) (Exchange executed agreement with organization or individual, as applicable).	1		.266		21.04 (per agreement)	
§ 155.225(b)(2)(ii) (Exchange direct individual certification process[23]).	18	18	20	360	1,284.34 (per respondent)	23,118.12
§ 155.225(d)(1) (training by Exchange).	19	19	15	285	588.55 (per respondent)	11,182.45
§ 155.225(d)(1) (training certificate retention).	8,700	8,700	.016	139	.43	3,741

[22] These estimated Exchange burdens assume 19 Exchanges, including 18 State Exchanges and one FFE, developing their own processes to designate organizations (rather than directly certifying individuals as provided under § 155.225(b)). HHS will establish a single process in all FFEs. We have proposed through rulemaking amendments to our regulations, that, if finalized as proposed, would permit Utah to operate a State Exchange for SHOP only.

[23] These estimated State Exchange burdens assume 18 State Exchanges, including Utah.

ANNUAL RECORDKEEPING AND REPORTING REQUIREMENTS—Continued

Regulation section(s)	Respondents	Responses (total)	Burden per response (hours)	Total annual burden (hours)	Labor cost of reporting ($)	Total Cost ($)
§ 155.225(d)(2) and (f) (disclosures).	8,700	8,700	.25	2,175	7.09 (per respondent)	61,683
§ 155.225(d)(6) (agreement between designated organization and staff).	1	.....	.266	.....	21.04 (per respondent)	.....
§ 155.225(e) (withdrawal by Exchange).	1	.....	3.016	.....	178.57 (per respondent) ...	.....
§ 155.225(e)(1) (organization withdrawal).	1	.....	3	.....	237.24 (per respondent) ...	.....
§ 155.225(e)(2) and (3) (individual withdrawal).	1	.....	3	.....	79.95 (per respondent)	.....
Total	XXXX	XXXX	.....	5,536.34	.....	188,041.41

IV. Regulatory Impact Statement

A. Summary

HHS is publishing this final rule to implement the protections intended by Congress in the most economically efficient manner possible. HHS has examined the effects of this rule as required by Executive Order 13563 (76 FR 3821, January 21, 2011), Executive Order 12866 (58 FR 51735, September 1993, Regulatory Planning and Review), the Regulatory Flexibility Act (RFA) (September 19, 1980, Pub. L. 96–354), the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), Executive Order 13132 on Federalism, and the Congressional Review Act (5 U.S.C. 804(2)).

B. Executive Orders 12866 and 13563

Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects; distributive impacts; and equity). Executive Order 13563 is supplemental to and reaffirms the principles, structures, and definitions governing regulatory review as established in Executive Order 12866.

Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as an action that is likely to result in a proposed rule—(1) having an annual effect on the economy of $100 million or more in any one year, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also referred to as ''economically significant''); (2) creating a serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order. OMB has determined that this final rule is a ''significant regulatory action'' under Executive Order 12866. Accordingly, OMB reviewed this final rule.

1. Need for Regulatory Action

This final regulation establishes conflict of interest, training and certification, and meaningful access standards applicable to Navigator programs in Federally-facilitated Exchanges, including State Partnership Exchanges, non-Navigator assistance programs in State Partnership Exchanges, and non-Navigator assistance programs in State Exchanges that are funded through federal 1311(a) Exchange Establishment grants. The final rule requires that these Navigators and non-Navigator assistance personnel register with and be certified by the Exchange.

The final rule also establishes the certified application counselor program as a consumer assistance function of the Exchange separate from, and in addition to, Navigators and non-Navigator assistance personnel. The Exchange may choose to either designate an organization to certify its staff members or volunteers to act as certified application counselors or to certify application counselors directly, or both. We intend that Federally-facilitated Exchanges will designate organizations to certify staff or volunteers as application counselors. State Exchanges may choose which option to use. The final rule also includes standards for certified application counselors for registration, training including complying with privacy and security standards, acting in the best interest of applicants, and ensuring reasonable accommodations for persons with disabilities, and entering into an agreement with the designated organization to comply with these standards. Designated organizations must enter into an agreement with the Exchange to comply with these standards and be responsible for registration and oversight of their staff and volunteers as certified application counselors.

The final rule also amends existing regulations to clarify that Navigators must meet any licensing, certification or other standards prescribed by the State or Exchange, if applicable, so long as such standards do not prevent the application of the provisions of title I of the Affordable Care Act; to add entities with relationships with issuers of stop loss insurance, including those who are compensated directly or indirectly by issuers of stop loss insurance in connection with enrollment in QHPs or non-QHPs, to the list of entities ineligible to become Navigators; and to clarify that the same ineligibility criteria that apply to Navigators providing services in any Federally-facilitated Exchange, including State Partnership Exchanges, also apply to non-Navigator assistance personnel providing assistance in State Partnership Exchanges and non-Navigator assistance personnel in State Exchanges funded through Exchange establishment grants.

2. Summary of Impacts

The final regulation helps ensure that Navigators in Federally-facilitated Exchanges, non-Navigator assistance personnel in State Partnership

Exchanges, and non-Navigator assistance personnel in State Exchanges funded through Exchange establishment grants will be fair and impartial, that certified application counselors will act in the best interest of applicants, and that all will be appropriately trained, and will provide services and information in a manner that is accessible to persons with limited English proficiency and persons with disabilities. The final rule also ensures that Navigators meet any licensing, certification or other standards prescribed by the State or Exchange, if applicable, so long as such standards do not prevent the application of the provisions of title I of the Affordable Care Act.

Navigators and non-Navigator assistance personnel will incur costs in order to comply with the provisions of this final rule, which will be covered by the Navigator grants and other compensation provided by the Exchange to non-Navigator assistance personnel. Certified application counselors will also incur costs in order to comply with the provisions of this final rule; such costs will likely be covered by designated organizations. Designated organizations will also incur costs to comply with the provisions of this rule; we expect these costs to be low since they are likely to already have processes in place for oversight of their staff and volunteers. Nothing in this rule would prohibit certified application counselors from being funded through applicable private, state, or federal programs. HHS anticipates that the impacts of the final rule will not be economically significant.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) requires agencies that issue a regulation to analyze options for regulatory relief of small businesses if a rule has a significant impact on a substantial number of small entities. The RFA generally defines a ''small entity'' as—(1) A proprietary firm meeting the size standards of the Small Business Administration (SBA); (2) a nonprofit organization that is not dominant in its field; or (3) a small government jurisdiction with a population of less than 50,000 (states and individuals are not included in the definition of ''small entity''). HHS uses as its measure of significant economic impact on a substantial number of small entities a change in revenues of more than 3 to 5 percent.

HHS anticipates that the final rule will not have a significant economic impact on a substantial number of small entities. Some of the entities that act as Navigators and non-Navigator assistance personnel, or designated certified application counselor organizations, may be small entities and will incur costs to comply with the provisions of this rule. It should be noted that serving as a Navigator or non-Navigator assistance personnel is voluntary, and the cost burden related to registering for accounts, verification of registration, initial online training and certification, continuing education and recertification, conflict of interest notification, and providing assistance to consumers will be covered by the Navigator grants, other compensation provided by the Exchange to non-Navigator assistance personnel, or any available state funds. Participation in the certified application counselor program is also voluntary and costs incurred by designated organizations are expected to be low and may be covered by available private or state funds. Due to lack of data, HHS is unable to estimate how many small entities would elect to serve as Navigators, non-Navigator assistance personnel, or designated organizations.

The size threshold for ''small'' business established by the SBA is currently $7 million in annual receipts for insurance agencies and brokerages.[24] As discussed earlier, we anticipate that agents and brokers will continue to be an important source of assistance for many consumers seeking access to health insurance coverage through an Exchange, including those who own and/or are employed by small businesses. The conflict of interest standards for Navigators will permit agents and brokers to serve as Navigators in an Exchange operated by HHS, provided that the agent or broker can satisfy the standards that will apply to all Navigators in the Exchange. Additionally, we anticipate that agents and brokers will also play a role in educating consumers about Exchanges and insurance affordability programs, and in helping consumers receive eligibility determinations, compare plans, and enroll in coverage to the extent permitted by a given state.

D. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) requires that agencies assess anticipated costs and benefits before issuing any rule that includes a federal mandate that could result in expenditure in any one year by state, local, or tribal governments, in the aggregate, or by the private sector, of $100 million in 1995 dollars, updated annually for inflation. In 2013, that threshold level is approximately $141 million.

UMRA does not address the total cost of a final rule. Rather, it focuses on certain categories of cost, mainly those ''Federal mandate'' costs resulting from—(1) Imposing enforceable duties on state, local, or tribal governments, or on the private sector; or (2) increasing the stringency of conditions in, or decreasing the funding of, state, local, or tribal governments under entitlement programs.

This final rule does not mandate expenditures by state governments, local governments, tribal governments, or the private sector, of $141 million. The cost burden for Navigators and non-Navigator assistance personnel related to registering for accounts, verification of registration, initial online training and certification, continuing education and recertification and conflict of interest notification will be covered by the Navigator grants, other compensation provided by the Exchange to non-Navigator assistance personnel, or any available state funds, and will not exceed the UMRA threshold. As discussed in the preamble to the April 5, 2013 proposed rule, State Exchanges and state partners in State Partnership Exchanges may use section 1311(a) Exchange Establishment grants to fund non-Navigator assistance programs. Section 1311(i)(6) prohibits Exchanges from using section 1311(a) grant funds to fund Navigator grants. Section 1311(a) grant funds, however, may be used to cover the Exchange's cost of administering the Navigator program, including, for example, the cost of Navigator training, grants management, and oversight. Although certified application counselors are not required to or expected to be funded, State Exchanges may apply section 1311(a) Establishment grants to costs related to the certified application counselor training program. Nothing in this rule would prohibit certified application counselors from being funded through other sources including applicable private, state, or federal programs.

E. Federalism

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a rule that imposes substantial direct requirement costs on state and local governments or has federalism implications.

The final rule clarifies that any Navigator licensing, certification, or other standards prescribed by the state

[24] ''Table of Size Standards Matched To North American Industry Classification System Codes,'' effective January 7, 2013, U.S. Small Business Administration, available at *http://www.sba.gov.*

or Exchange should not prevent the application of the provisions of title I of the Affordable Care Act. An entity or individual will be required to meet any licensing, certification, or other standards prescribed by the State or Exchange, if applicable, so long as such standards do not prevent the application of the provisions of title I of the Affordable Care Act. We are monitoring relevant state legislation and will work with states to help ensure that state legislation does not conflict with title I of the Affordable Care Act and the federal regulations implementing it.

Throughout the process of developing this final regulation, HHS has attempted to balance the states' interests and Congress' intent to provide uniform minimum protections to consumers in every state. By doing so, it is HHS's view that we have complied with the requirements of Executive Order 13132. Pursuant to the requirements set forth in section 8(a) of Executive Order 13132, and by the signatures affixed to this regulation, the Department certifies that the Centers for Medicare & Medicaid Services has complied with the requirements of Executive Order 13132 for the final regulation in a meaningful and timely manner.

F. Congressional Review Act

This final rule is subject to the Congressional Review Act provisions of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801, et seq.), which specifies that before a rule can take effect, the federal agency promulgating the rule shall submit to each House of the Congress and to the Comptroller General a report containing a copy of the rule along with other specified information.

List of Subjects in 45 CFR Part 155

Administrative practice and procedure, Advertising, Brokers, Conflict of interest, Consumer protection, Grant programs—health, Grants administration, Health care, Health insurance, Health maintenance organization (HMO), Health records, Hospitals, Indians, Individuals with disabilities, Loan programs—health, Organization and functions (Government agencies), Medicaid, Public assistance programs, Reporting and recordkeeping requirements, Safety, State and local governments, Technical assistance, Women, and Youth.

For the reasons stated in the preamble, the Department of Health and Human Services amends 45 CFR part 155 as set forth below:

PART 155—EXCHANGE ESTABLISHMENT STANDARDS AND OTHER RELATED STANDARDS UNDER THE AFFORDABLE CARE ACT

■ 1. The authority citation for part 155 continues to read as follows:

Authority: Title I of the Affordable Care Act, sections 1301, 1302, 1303, 1304, 1311, 1312, 1313, 1321, 1322, 1331, 1334, 1402, 1411, 1412, 1413, Pub. L. 111–148, 124 Stat. 119 (42 U.S.C. 18021–18024, 18031–18033, 18041–18042, 18051, 18054, 18071, and 18081–18083.)

■ 2. Section 155.205 is amended by revising paragraph (d) to read as follows:

§ 155.205 Consumer assistance tools and programs of an Exchange.

* * * * *

(d) *Consumer assistance.* (1) The Exchange must have a consumer assistance function that meets the standards in paragraph (c) of this section, including the Navigator program described in § 155.210. Any individual providing such consumer assistance must be trained regarding QHP options, insurance affordability programs, eligibility, and benefits rules and regulations governing all insurance affordability programs operated in the state, as implemented in the state, prior to providing such assistance.

(2) The Exchange must provide referrals to any applicable office of health insurance consumer assistance or health insurance ombudsman established under section 2793 of the Public Health Service Act, or any other appropriate State agency or agencies, for any enrollee with a grievance, complaint, or question regarding their health plan, coverage, or a determination under such plan or coverage.

* * * * *

■ 3. Section 155.210 is amended by revising paragraphs (c)(1)(iii), (d)(1), (d)(2), and (d)(4) to read as follows:

§ 155.210 Navigator program standards.

* * * * *

(c) * * *

(1) * * *

(iii) Meet any licensing, certification or other standards prescribed by the State or Exchange, if applicable, so long as such standards do not prevent the application of the provisions of title I of the Affordable Care Act;

* * * * *

(d) * * *

(1) Be a health insurance issuer or issuer of stop loss insurance;

(2) Be a subsidiary of a health insurance issuer or issuer of stop loss insurance;

* * * * *

(4) Receive any consideration directly or indirectly from any health insurance issuer or issuer of stop loss insurance in connection with the enrollment of any individuals or employees in a QHP or a non-QHP.

* * * * *

■ 4. Section 155.215 is added to read as follows:

§ 155.215 Standards applicable to Navigators and Non-Navigator Assistance Personnel carrying out consumer assistance functions under §§ 155.205(d) and (e) and 155.210 in a Federally-facilitated Exchange and to Non-Navigator Assistance Personnel funded through an Exchange Establishment Grant.

(a) *Conflict-of-interest standards.* The following conflict-of-interest standards apply in an Exchange operated by HHS during the exercise of its authority under § 155.105(f) and to non-Navigator assistance personnel funded through an Exchange Establishment Grant under section 1311(a) of the Affordable Care Act:

(1) *Conflict-of-interest standards for Navigators.* (i) All Navigator entities, including Navigator grant applicants, must submit to the Exchange a written attestation that the Navigator, including the Navigator's staff:

(A) Is not a health insurance issuer or issuer of stop loss insurance;

(B) Is not a subsidiary of a health insurance issuer or issuer of stop loss insurance;

(C) Is not an association that includes members of, or lobbies on behalf of, the insurance industry; and

(D) Will not receive any consideration directly or indirectly from any health insurance issuer or issuer of stop loss insurance in connection with the enrollment of any individuals or employees in a QHP or non-QHP.

(ii) All Navigator entities must submit to the Exchange a written plan to remain free of conflicts of interest during the term as a Navigator.

(iii) All Navigator entities, including the Navigator's staff, must provide information to consumers about the full range of QHP options and insurance affordability programs for which they are eligible.

(iv) All Navigator entities, including the Navigator's staff, must disclose to the Exchange and, in plain language, to each consumer who receives application assistance from the Navigator:

(A) Any lines of insurance business, not covered by the restrictions on participation and prohibitions on

conduct in § 155.210(d), which the Navigator intends to sell while carrying out the consumer assistance functions;

(B) Any existing employment relationships, or any former employment relationships within the last 5 years, with any health insurance issuers or issuers of stop loss insurance, or subsidiaries of health insurance issuers or issuers of stop loss insurance, including any existing employment relationships between a spouse or domestic partner and any health insurance issuers or issuers of stop loss insurance, or subsidiaries of health insurance issuers or issuers of stop loss insurance; and

(C) Any existing or anticipated financial, business, or contractual relationships with one or more health insurance issuers or issuers of stop loss insurance, or subsidiaries of health insurance issuers or issuers of stop loss insurance.

(2) *Conflict-of-interest standards for Non-Navigator assistance personnel carrying out consumer assistance functions under § 155.205(d) and (e).* All Non-Navigator entities or individuals authorized to carry out consumer assistance functions under § 155.205(d) and (e) must—

(i) Comply with the prohibitions on Navigator conduct set forth at § 155.210(d) and the duties of a Navigator set forth at § 155.210(e)(2).

(ii) Submit to the Exchange a written attestation that the entity or individual—

(A) Is not a health insurance issuer or issuer of stop loss insurance;

(B) Is not a subsidiary of a health insurance issuer or issuer of stop loss insurance;

(C) Is not an association that includes members of, or lobbies on behalf of, the insurance industry; and

(D) Will not receive any consideration directly or indirectly from any health insurance issuer or issuer of stop loss insurance in connection with the enrollment of any individuals or employees in a QHP or non-QHP.

(iii) Submit to the Exchange a written plan to remain free of conflicts of interest while carrying out consumer assistance functions under § 155.205(d) and (e).

(iv) Provide information to consumers about the full range of QHP options and insurance affordability programs for which they are eligible.

(v) Submit to the Exchange, and, in plain language, to each consumer who receives application assistance from the entity or individual:

(A) Any lines of insurance business, not covered by the restrictions on participation and prohibitions on conduct in § 155.210(d), which the entity or individual intends to sell while carrying out the consumer assistance functions;

(B) Any existing employment relationships, or any former employment relationships within the last five years, with any health insurance issuers or issuers of stop loss insurance, or subsidiaries of health insurance issuers or issuers of stop loss insurance, including any existing employment relationships between a spouse or domestic partner and any health insurance issuers or issuers of stop loss insurance, or subsidiaries of health insurance issuers or issuers of stop loss insurance; and

(C) Any existing or anticipated financial, business, or contractual relationships with one or more health insurance issuers or issuers of stop loss insurance, or subsidiaries of health insurance issuers or issuers of stop loss insurance.

(b) *Training standards for Navigators and Non-Navigator assistance personnel carrying out consumer assistance functions under §§ 155.205(d) and (e) and 155.210.* The following training standards apply in an Exchange operated by HHS during the exercise of its authority under § 155.105(f), and to non-Navigator assistance personnel funded through an Exchange Establishment Grant under section 1311(a) of the Affordable Care Act.

(1) Certification and recertification standards. All individuals or entities who carry out consumer assistance functions under §§ 155.205(d) and (e) and 155.210, including Navigators, must meet the following certification and recertification requirements.

(i) Obtain certification by the Exchange prior to carrying out any consumer assistance functions under §§ 155.205(d) and (e) or 155.210;

(ii) Register for and complete a HHS-approved training;

(iii) Following completion of the HHS-approved training described in paragraph (b)(1)(ii) of this section, complete and achieve a passing score on all approved certification examinations prior to carrying out any consumer assistance functions under §§ 155.205(d) and (e) or 155.210;

(iv) Obtain continuing education and be certified and/or recertified on at least an annual basis; and

(v) Be prepared to serve both the individual Exchange and SHOP.

(2) *Training module content standards.* All individuals who carry out the consumer assistance functions under §§ 155.205(d) and (e) and 155.210 must receive training in the following subjects:

(i) QHPs (including the metal levels described at § 156.140(b) of this subchapter), and how they operate, including benefits covered, payment processes, rights and processes for appeals and grievances, and contacting individual plans;

(ii) The range of insurance affordability programs, including Medicaid, the Children's Health Insurance Program (CHIP), and other public programs;

(iii) The tax implications of enrollment decisions;

(iv) Eligibility requirements for premium tax credits and cost-sharing reductions, and the impacts of premium tax credits on the cost of premiums;

(v) Contact information for appropriate federal, state, and local agencies for consumers seeking additional information about specific coverage options not offered through the Exchange;

(vi) Basic concepts about health insurance and the Exchange; the benefits of having health insurance and enrolling through an Exchange; and the individual responsibility to have health insurance;

(vii) Eligibility and enrollment rules and procedures, including how to appeal an eligibility determination;

(viii) Providing culturally and linguistically appropriate services;

(ix) Ensuring physical and other accessibility for people with a full range of disabilities;

(x) Understanding differences among health plans;

(xi) Privacy and security standards applicable under § 155.260 for handling and safeguarding consumers' personally identifiable information;

(xii) Working effectively with individuals with limited English proficiency, people with a full range of disabilities, and vulnerable, rural, and underserved populations;

(xiii) Customer service standards;

(xiv) Outreach and education methods and strategies; and

(xv) Applicable administrative rules, processes and systems related to Exchanges and QHPs.

(c) *Providing Culturally and Linguistically Appropriate Services (CLAS Standards).* The following standards will apply in an Exchange operated by HHS during the exercise of its authority under § 155.105(f) and to non-Navigator assistance personnel funded through an Exchange Establishment Grant under section 1311(a) of the Affordable Care Act. To ensure that information provided as part of any consumer assistance functions under §§ 155.205(d) and (e) or 155.210 is culturally and linguistically

appropriate to the needs of the population being served, including individuals with limited English proficiency as required by §§ 155.205(c)(2) and 155.210(e)(5), any entity or individual carrying out these functions must:

(1) Develop and maintain general knowledge about the racial, ethnic, and cultural groups in their service area, including each group's diverse cultural health beliefs and practices, preferred languages, health literacy, and other needs;

(2) Collect and maintain updated information to help understand the composition of the communities in the service area, including the primary languages spoken;

(3) Provide consumers with information and assistance in the consumer's preferred language, at no cost to the consumer, including the provision of oral interpretation of non-English languages and the translation of written documents in non-English languages when necessary or when requested by the consumer to ensure effective communication. Use of a consumer's family or friends as oral interpreters can satisfy the requirement to provide linguistically appropriate services only when requested by the consumer as the preferred alternative to an offer of other interpretive services;

(4) Provide oral and written notice to consumers with limited English proficiency, in their preferred language, informing them of their right to receive language assistance services and how to obtain them;

(5) Receive ongoing education and training in culturally and linguistically appropriate service delivery; and

(6) Implement strategies to recruit, support, and promote a staff that is representative of the demographic characteristics, including primary languages spoken, of the communities in their service area.

(d) *Standards ensuring access by persons with disabilities.* The following standards related to ensuring access by people with disabilities will apply in an Exchange operated by HHS during the exercise of its authority under § 155.105(f), and to non-Navigator assistance personnel funded through an Exchange Establishment Grant under section 1311(a) of the Affordable Care Act. Any entity or individual carrying out any consumer assistance functions under §§ 155.205(d) and (e) or 155.210, and in accordance with § 155.205(c), must—

(1) Ensure that any consumer education materials, Web sites, or other tools utilized for consumer assistance purposes, are accessible to people with disabilities, including those with sensory impairments, such as visual or hearing impairments, and those with mental illness, addiction, and physical, intellectual, and developmental disabilities;

(2) Provide auxiliary aids and services for individuals with disabilities, at no cost, when necessary or when requested by the consumer to ensure effective communication. Use of a consumer's family or friends as interpreters can satisfy the requirement to provide auxiliary aids and services only when requested by the consumer as the preferred alternative to an offer of other auxiliary aids and services;

(3) Provide assistance to consumers in a location and in a manner that is physically and otherwise accessible to individuals with disabilities;

(4) Ensure that authorized representatives are permitted to assist an individual with a disability to make informed decisions;

(5) Acquire sufficient knowledge to refer people with disabilities to local, state, and federal long-term services and supports programs when appropriate; and

(6) Be able to work with all individuals regardless of age, disability, or culture, and seek advice or experts when needed.

(e) *Monitoring.* Any Exchange operated by HHS during the exercise of its authority under § 155.105(f) will monitor compliance with the standards in this section and the requirements of §§ 155.205(d) and (e) and 155.210.

■ 5. Section 155.225 is added to read as follows:

§ 155.225 Certified application counselors.

(a) *General rule.* The Exchange must have a certified application counselor program that complies with the requirements of this section.

(b) *Exchange designation of organizations.* (1) The Exchange may designate an organization, including an organization designated as a Medicaid certified application counselor organization by a state Medicaid or CHIP agency, to certify its staff members or volunteers to act as certified application counselors who perform the duties and meet the standards and requirements for certified application counselors in this section if the organization—

(i) Enters into an agreement with the Exchange to comply with the standards and requirements of this section including the standards specified in paragraphs (d)(3) through (d)(5) of this section; and

(ii) Maintains a registration process and method to track the performance of certified application counselors.

(2) An Exchange may comply with paragraph (a) of this section either by—

(i) Designating organizations to certify application counselors in compliance with paragraph (b)(1) of this section;

(ii) Directly certifying individual staff members or volunteers of Exchange designated organizations to provide the duties specified in paragraph (c) of this section if the staff member or volunteer enters into an agreement with the Exchange to comply with the standards and requirements for certified application counselors in this section; or

(iii) A combination of paragraphs (b)(2)(i) and (b)(2)(ii) of this section.

(c) *Duties.* Certified application counselors are certified to—

(1) Provide information to individuals and employees about the full range of QHP options and insurance affordability programs for which they are eligible;

(2) Assist individuals and employees to apply for coverage in a QHP through the Exchange and for insurance affordability programs; and

(3) Help to facilitate enrollment of eligible individuals in QHPs and insurance affordability programs.

(d) *Standards of certification.* An organization designated by the Exchange to provide certified application counselor services, or an Exchange that chooses to certify individual staff members or volunteers directly under paragraph (b)(2)(ii) of this section, may certify a staff member or volunteer to perform the duties specified in paragraph (c) of this section only if the staff member or volunteer—

(1) Completes Exchange approved training regarding QHP options, insurance affordability programs, eligibility, and benefits rules and regulations governing all insurance affordability programs operated in the state, as implemented in the state, and completes and achieves a passing score on all Exchange approved certification examinations, prior to functioning as a certified application counselor;

(2) Discloses to the organization, or to the Exchange if directly certified by an Exchange, and potential applicants any relationships the certified application counselor or sponsoring agency has with QHPs or insurance affordability programs, or other potential conflicts of interest;

(3) Complies with the Exchange's privacy and security standards adopted consistent with § 155.260, and applicable authentication and data security standards;

(4) Agrees to act in the best interest of the applicants assisted;

(5) Either directly or through an appropriate referral to a Navigator or non-Navigator assistance personnel authorized under §§ 155.205(d) and (e) or 155.210, or to the Exchange call center authorized under § 155.205(a), provides information in a manner that is accessible to individuals with disabilities, as defined by the Americans with Disabilities Act, as amended, 42 U.S.C. 12101 et seq. and section 504 of the Rehabilitation Act, as amended, 29 U.S.C. 794; and

(6) Enters into an agreement with the organization regarding compliance with the standards specified in paragraphs (d), (f), and (g) of this section.

(e) *Withdrawal of designation and certification.* (1) The Exchange must establish procedures to withdraw designation from a particular organization it has designated under paragraph (b) of this section, when it finds noncompliance with the terms and conditions of the organization's agreement required by paragraph (b) of this section.

(2) If an Exchange directly certifies organizations' individual certified application counselors, it must establish procedures to withdraw certification from individual certified application counselors when it finds noncompliance with the requirements of this section.

(3) An organization designated by the Exchange under paragraph (b) of this section must establish procedures to withdraw certification from individual certified application counselors when it finds noncompliance with the requirements of this section.

(f) *Availability of information; authorization.* An organization designated by the Exchange under paragraph (b) of this section, or, if applicable, an Exchange that certifies staff members or volunteers of organizations directly must establish procedures to ensure that applicants—

(1) Are informed of the functions and responsibilities of certified application counselors; and

(2) Provide authorization prior to a certified application counselor obtaining access to an applicant's personally identifiable information and that the organization or certified application counselor maintains a record of the authorization provided.

(3) May revoke at any time the authorization provided the certified application counselor, pursuant to paragraph (f)(2) of this section.

(g) *Fees.* Organizations designated by the Exchange under paragraph (b) of this section and certified application counselors may not impose any charge on applicants for application or other assistance related to the Exchange.

Dated: June 13, 2013.

Marilyn Tavenner,

Administrator, Centers for Medicare & Medicaid Services.

Approved: June 14, 2013.

Kathleen Sebelius,

Secretary, Department of Health and Human Services.

[FR Doc. 2013–17125 Filed 7–12–13; 4:15 pm]

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